

**A CURRENT ASSESSMENT OF  
MONEY LAUNDERING AND TERRORIST  
FINANCING THREATS AND COUNTERMEASURES**

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**HEARING**  
BEFORE THE  
**COMMITTEE ON**  
**BANKING, HOUSING, AND URBAN AFFAIRS**  
**UNITED STATES SENATE**  
**ONE HUNDRED NINTH CONGRESS**

SECOND SESSION

ON

A CURRENT ASSESSMENT OF MONEY LAUNDERING AND TERRORIST  
FINANCING THREATS AND COUNTERMEASURE

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APRIL 4, 2006

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# **A CURRENT ASSESSMENT OF MONEY LAUNDERING AND TERRORIST FINANCING THREATS AND COUNTERMEASURES**

**TUESDAY, APRIL 4, 2006**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
*Washington, DC.*

The Committee met at 10:25 a.m., in room SD-538, Dirksen Senate Office Building, Senator Richard C. Shelby (Chairman of the Committee) presiding.

## **OPENING STATEMENT OF CHAIRMAN RICHARD C. SHELBY**

Chairman SHELBY. The hearing will come to order.

For more than 2 years now, the Committee has been closely monitoring the Government's initiative under both the USA PATRIOT Act and the Bank Secrecy Act to stem the tide of money laundering while also attempting to starve terrorists of funding.

During the course of hearings held on the subject, the Committee and the public have heard the Government and private sector witnesses testify on a number of areas in our financial system that remain open to exploitation by criminals and terrorists alike and on the measures taken and yet to be taken to address such weaknesses.

The purpose of today's hearing is to get a current assessment from the Government on the traditional and emergent money laundering and terrorist financing threats facing the Nation and to examine the measures and the degree to which these threats are being countered. We will focus specifically on the analysis and findings of three reports: The U.S. Money Laundering Threat Assessment, the final report of the September 11 Commission recommendations, and the International Narcotics Control Strategy Report, or INCSR, as it is known.

In what appears to be one of the Government's best cooperative efforts yet, the U.S. Money Laundering Threat Assessment presents findings on traditional money laundering derived from the input of more than 16 Federal entities. The report is a valuable tool and in and of itself is a benchmark of Government efforts to address trends in the prevention of money laundering. Although terrorist financing is not directly covered by the report, the Committee fears that some of these money laundering techniques are becoming increasingly employed by terrorist groups and their allies in criminal gangs around the world.

The original September 11 Commission's report, issued in the summer of 2004, recommended that vigorous efforts to track terrorist financing must remain front and center in the U.S. counterterrorism efforts. The September 11 Commission's final report is a report card of sorts on the Government's overall efforts in the war on terror, a very poor report card for the most part. But the Commissioners did see fit to give a grade of A- to the Government's counterterrorism financing efforts, the highest grade of the report, in fact.

Increasingly, there is widespread international recognition that terrorist financing cannot be ignored, and the Government has made progress in tracking terrorist funding, which, in turn, has provided critical intelligence behind the understanding of terror networks, enabling them to be disrupted. Yet, we must not forget that we are approaching the 5-year mark of the horrors of the September 11 attacks. The excellent work made on understanding the vastness of the money laundering threat, together with this grade from the Commissioners, surely cannot mean that we are doing so well in our efforts that the United States can relax or slow its pace in the fight against terrorist financing. In fact, what successes we may have realized as a Nation have caused terrorists out there to continue to learn and to adapt.

More than ever, it is now imperative that our Government move swiftly from the lessons learned to a plan of action. We must always be ready to reassess our thinking on these threats and to ask ourselves whether we are moving in the right direction or whether policy and operational resources are properly aligned.

Importantly, throughout this period, the Committee has remained ever mindful that as the Government moves forward in its fight against money laundering and terror financing that sometimes, competing interests among national security, law enforcement, and business are examined so that our financial system does not endure over-regulation. It must be reaffirmed, however, that national security concerns should never be subjugated to commercial interests.

In this context, the currency transaction report is being reviewed for possible reform. Last month, this Committee heard from industry, the regulators, and the Financial Crimes Enforcement Network on this subject. In essence, FinCEN and the regulators agreed that each could support some movement on this issue if the interests of law enforcement were not compromised.

It is very important for this Committee to receive a clear statement of the law enforcement point of view on the record here. While law enforcement has routinely testified to the importance of the currency transaction report in various forms, there appear to be some outstanding questions with respect to the nature of the law enforcement perspective. To this point, law enforcement may not have been as clear as it could have been by speaking in terms of the value of the BSA information being important as a whole without segregating the importance of the CTR.

We have invited law enforcement officials here to speak about their role in fighting against money laundering and terror financing today. We can ask law enforcement why the currency transaction report is important to its mission in that fight. Moreover,

law enforcement will once again have the opportunity to explain what trouble, if any, it has with a significant reduction in the number of CTR's currently being filed, whether it results from a new exemption process or some other vehicle.

The importance of law enforcement's opinion cannot be overestimated in this case when this Committee has not seen any independent, quantifiable analysis to support such a significant reduction in CTR filings. While we are concerned with the possibility of undue burden on the private sector, it should be emphasized that efforts to roll back the current, carefully constructed legal protection of the current system be measured against the resulting harm caused to the investigative capabilities of law enforcement.

The Committee will hear today from a panel of Government experts who, at one level or another, take the battle for our Nation's financial security to the enemy. We shall hear from both policy makers and some of the financial soldiers who conduct the actual operations in this war.

Our two panels today include, I will go on the first panel first, Stuart Levey, Under Secretary of the Treasury for Terrorism and Financial Crimes and our most regular visitor here, Anthony Wayne, Assistant Secretary of State for Economic, Business, and Agricultural Affairs. Our second panel will have Michael F.A. Morehart, Chief of the FBI's Terrorist Financing Operations Section and Kevin Delli-Colli, the Deputy Assistant Director of Financial and Trade Investigations at Immigration and Customs Enforcement.

Gentlemen, I appreciate all of you being here today. I am sorry we were a little late getting here, but votes on the Senate floor take precedence.

Senator Crapo.

#### **STATEMENT OF SENATOR MIKE CRAPO**

Senator CRAPO. Thank you very much, Mr. Chairman, and I first of all want to thank you for holding this hearing, it is a very critical issue, and indicate that I agree very strongly with the statement that you just made.

It must be understood that we do not want to relax or slow our effort to combat terrorist financing, and we must always understand that national security takes the first position and the highest priority when we are trying to evaluate the effectiveness of the procedures and processes which we are implementing.

We must not compromise law enforcement, and I think it is important we have this hearing so we can hear from law enforcement. I say that in the context of the effort that, as you know, Mr. Chairman, you have asked me to help lead in terms of regulatory reform of our financial institutions and the system we have in our country which often does create a significant series of regulatory burdens for our financial industry and those who are engaged in it.

The banking industry continues to identify the filing of currency transaction reports, what we call CTR's, as a top regulatory expense; in fact, last month, when we had a hearing on financial regulatory reform, a number of the industry witnesses before our Committee raised the filing of CTR's to be the top item of all the items

that we are considering with regard to regulatory reform that needs attention.

The regulators said that many bankers feel that the exemption process is not effective; that it is too complex and labor intensive, and it is subject to second guessing by bank examination personnel, and it was stressed to me that one of the important things for any exemption is that we provide certainty. In fact, I asked some of those who were before me why it was that the financial institutions did not take advantage of existing exemptions in the law more commonly. And the answer that I was given is that the penalty for guessing wrong or for making a mistake on claiming the exemption is so high that there are very few who are even willing to try to go down that road.

So one of the things that I think we hopefully can try to achieve is some certainty for the financial institutions with regard to the existing standards, which we have already identified to be adequate or workable.

The U.S. Money Laundering Threat Assessment published that the number of CTR's filed annually now tops 13.1 million, and FinCEN's estimates are that it takes about 25 minutes for a report for filling in recordkeeping results in the industry, and we also indicate that there is apparently on the whole a devoting of about 5.5 million staff hours of work to handling the CTR's in 2005.

The American Bankers Association conducted a survey, which demonstrates that the industry paid about \$187 million in wages for this staff time, with three-quarters of the filing for business customers who have been with the bank for over a year. Based on the ABA's survey, the industry spent about 4 million staff hours and over \$140 million on filing notices on established customers in the year 2005.

And again, I come back to the points that the Chairman has made: If this is all necessary for our national security, then, our national security takes the highest priority. But the question I think we need to address here is whether we are implementing a system effectively with the least amount of burden for the industry which we expect to carry this burden. The bankers believe that CTR's have been overtaken by more important and effective enforcement tools such as enhanced customer identification programs, increased suspicious activity reporting and the use of the 314(a) process, and my understanding is that the 314(a) inquiry process that we put into place in the USA PATRIOT Act has been a particularly effective tool, since it allows law enforcement to identify all accounts that are suspect and not just those where large cash activities have occurred. The banks have been very responsive to these inquiries, and arrests and convictions have occurred.

Now, again, my point in raising these statistics and these arguments is that I do not myself know where the right line is, and again, as the Chairman has indicated, we want to make sure that we have no slowdown or relaxation of our efforts to combat terrorist financing. At the same time, if we can improve the way that we are operating the system without sacrificing security, then, I think we need to give a very strong look at how we can do so.



And I am very interested in the information that we will receive from law enforcement today, and again, Mr. Chairman, I thank you for holding this hearing.

Chairman SHELBY. Thank you, Senator Crapo. We also appreciate what you are doing in the areas of deregulation of so many laws and, I hope, regulations that are not relevant to today's environment.

Senator CRAPO. Mr. Chairman.

Chairman SHELBY. Yes.

Senator CRAPO. Mr. Chairman, I would like to also indicate that as usually happens, I have about five conflicting schedule items this morning. I may not be able to stay long enough to ask all my questions, and so I would ask if I could submit some in writing.

Chairman SHELBY. We will open it for the record.

Senator CRAPO. All right; thank you.

Chairman SHELBY. Mr. Secretary, we appreciate you being here with us. We will start with you. And you might, and I am sure you will get into this, but we have the old cost-benefit analysis in everything, and we know that we are doing a lot better in fighting the war on terrorism and money laundering. We know the reports: the September 11 Commission, they do not give out good grades for nothing. But the fight goes on.

But there is more than just the thought; this is very expensive and burdensome to the banking community, and is it necessary? I am sure you will get into this.

**STATEMENT OF STUART LEVEY  
UNDER SECRETARY, OFFICE OF TERRORISM  
AND FINANCIAL INTELLIGENCE,  
U.S. DEPARTMENT OF THE TREASURY**

Mr. LEVEY. Thank you very much, Mr. Chairman.

Mr. Chairman, Senator Crapo, thank you for the opportunity to speak to you today about the progress we are making in combating terrorist financing and money laundering. It is a privilege for me to be a regular visitor to this Committee, as the Chairman noted.

In the last 4 months, we have seen assessments of our progress in both of these areas: The September 11 Commission Public Discourse Project's evaluation of our terrorist financing efforts, and the U.S. Government's first-ever Money Laundering Threat Assessment. These assessments and this hearing provide an opportunity to take stock of how we are doing on these issues.

As you noted, Mr. Chairman, the September 11 Commission's Public Discourse Project awarded its highest grade, an A-, to the U.S. Government's efforts to combat terrorist financing. This praise truly belongs to the dedicated individuals in both my organization, the Office of Terrorism and Financial Intelligence, as well as our partner agencies: The State Department, the FBI, ICE, and others, who are aggressively tracking and combating this threat. You will not find a more talented and dedicated group of people on the working level, the soldiers fighting this.

But in my view, reducing the U.S. Government's wide ranging efforts against terrorist financing to a single letter is necessarily only going to tell a small part of the story. There is much being done to combat terrorist financing, including intelligence collection, en-

forcement action, capacity-building, and systemic improvements to safeguard the world's financial system.

Our theater of engagement spans the world, from money changing tables in Kabul, to the jungles of South America's tri-border area, to the compliance offices of the world's most sophisticated banks. No single letter grade can convey this complex picture. What we focus on as measures of success are the intelligence reports we receive, although often fragmentary, that speak of the difficulties terrorists are having raising and moving money.

In recent months, we have seen at least one instance of what we look for most: A terrorist organization indicating that it cannot pursue sophisticated attacks because it lacks adequate funding. That is clearly a success. But we can also point to successes in specific systemic areas as well. We have made real progress in combating terrorist abuse of charities through a combination of enforcement actions, prosecutions, and active engagement with the legitimate financial charitable sector.

One terrorist-supporting charity, the Islamic African Relief Agency, once provided hundreds of thousands of dollars to Osama bin Laden. Since its designation, IARA country offices have felt the pressure, and its leaders are worried about the organization's survival. And other corrupt charities have been shut down as well.

We have also seen success in preventing terrorist financiers by deterring would-be donors. In my opinion, if we are to succeed in our fight against terrorist financing, we need potential donors to know that responsible governments will treat them as the terrorists they are. Those who reach for their wallets to fund terrorism must be pursued and punished in the same way as those who reach for a bomb or a gun.

In that regard, I was heartened by a recent statement from Saudi Arabian Foreign Minister Prince Saud al Faisal, who publicly called for those who supported terrorism to be held to account. If Saudi Arabia and others in the region see this commitment through, it will send a powerful message of deterrence to would-be terrorist financiers.

In other arenas of this fight, we are not where we need to be, in my opinion. State sponsors of terrorism like Iran and Syria present a difficult problem, because they provide not only money and safe haven to terrorists but also a financial infrastructure through which terrorists can move, store, and launder their funds.

While this is a daunting challenge, the impact of our actions over the past year with respect to Syria show that we can make progress in isolating state sponsors of terrorism. Among other things, we finalized the designation of the Commercial Bank of Syria under Section 311 of the USA PATRIOT Act, enacted through the leadership of this Committee, and we did that in part because of the risk of terrorist financing posed by a bank owned and controlled by an active defiant State sponsor of terror like Syria.

Progress, though, requires the active cooperation of responsible financial institutions not only in the United States but also around the world. The recent announcement by UBS that it would cut off all business with Iran and Syria provides a notable example of a

financial institution making clear that the business of terrorist states is just not worth the risk.

I would note that our allies and the world's financial institutions are beginning to apply this approach not just to terrorism but to WMD proliferation networks as well.

By capitalizing on a growing international consensus that these activities have no place in the legitimate global financial system, we have been able to apply effective pressure to counteract these threats. For example, confronted with North Korean conduct ranging from WMD proliferation to the counterfeiting of U.S. currency and other illicit behavior, the Treasury targeted several North Korean proliferation firms under a new Executive Order, 13382, which applies the same tools we use against terrorist financing to proliferation.

We also took regulatory action under Section 311 of the USA PATRIOT Act to protect our financial systems against Banco Delta Asia, a Macanese bank that was handling a range of North Korean illicit activities with barely a pretense of due diligence or control.

As a result of our actions and revelations about North Korea's illicit activities, a number of responsible jurisdictions and financial institutions have taken steps to ensure that North Korean entities engaged in illicit conduct are not receiving financial services. Our combined actions have been described as causing, "a ripple effect around the world," constricting the flow of dirty cash into Kim Jong Il's regime.

These examples should be of particular note to this Committee as it demonstrates the impact of the financial tools, many of which were created through the leadership and vision of this Committee and in particular in the USA PATRIOT Act.

In addition to the threats posed by terrorist financing or proliferation of WMD, money laundering is, as you note, Mr. Chairman and Senator Crapo, it is a serious threat in its own right to our national and economic security. Money laundering enables crime and contributes to an erosion of confidence in our legal and financial systems.

The release of the Interagency Money Laundering Threat Assessment in December 2005 was a great accomplishment for our Government. Sixteen Federal bureaus and offices from across the law enforcement, regulatory, and policy community came together, with each office bringing its own perspective and experiences to the table. The group pulled together arrest and forfeiture statistics, case studies, regulatory filings, private and Government reports, and field observations from those in the trenches.

The completed threat assessment provides policymakers across the Government with an accurate picture of how money is being laundered in and through the United States. And while this Interagency Money Laundering Threat Assessment is an excellent development, it is, of course, only the beginning of the process. We now need to build on the cooperation that went into the assessment to craft effective ways to counteract the vulnerabilities identified, and by effective ways, I think I am referring exactly to what you are referring to, Senator Crapo, through a legitimate cost-benefit analysis that will be able to do better now that we have an accurate

picture. We are better able to cure the problem now that we have assessed it.

And that work is already ongoing. I agree completely with your assessment, Mr. Chairman, that we need to stay vigilant and also your comments on that, Senator Crapo, and I thank you again for holding this hearing and for your sustained commitment to these issues.

I would be happy to take your questions.

Chairman SHELBY. Thank you.

Secretary Wayne, welcome again to the Committee.

**STATEMENT OF E. ANTHONY WAYNE  
ASSISTANT SECRETARY, ECONOMIC AND BUSINESS AFFAIRS,  
U.S. DEPARTMENT OF STATE**

Mr. WAYNE. Thank you very much, Mr. Chairman, Senator Crapo. It is a great pleasure to be with you here again today. As Assistant Secretary for Economic and Business Affairs, I have been actively involved in the campaign against terrorist financing. And I just want to underscore, as Under Secretary Levey has said, your continuing interest and attention to this important area is extremely valuable and very much appreciated.

For the Department of State, the cutting off of funds to terrorists remains a very high priority. As we work on this, we work hand-in-hand with the National Security Council, with the Treasury Department, with Justice, with Homeland Security, and other agencies, it really is a team effort. At the State Department, we focus on foreign policy guidance, diplomatic engagement, and training and technical assistance.

But regardless of what the task is, as we are going about the tackling the financing of terrorism, the U.S. Government team really works to underscore the importance of coordination. All of us involved in this fight, of course, take pride, as you noted, Mr. Chairman, in the September 11 Commission Public Discourse Project's final report on terrorist financing, and those of us working in the economic area are also pleased that the next highest mark they gave out was for work on economic policies.

But what has really become clear to us is that it is our team effort that has served as the foundation for the international cooperation that was called for in the September 11 Commission's initial report. And diplomacy is critical in winning the political commitment that we need from other countries, and in that, our embassy teams—teams not just from the State Department but from other agencies as well—play a critical role.

We are not resting on our laurels, however. We are working very hard on engaging other governments and moving forward to put in place and then implement the steps they need to take to really be serious about terrorist financing and money laundering threats.

According to the annual International Narcotics Control Strategy Report that you referred to, Mr. Chairman, there has been a good deal of progress over the last year. Seventeen countries promulgated or updated anti-money laundering and terrorist financing laws in 2005. The number of jurisdictions that have criminalized money laundering to include other crimes resulting in money laundering beyond narcotics increased to 172 from 163 in 2004. Ten

more countries criminalized terrorist financing, so the total number with those laws in place is now 123.

Seven more financial intelligence units became members of the Egmont Group, raising the global membership to 101 countries around the world. One hundred twenty-three governments are now members of the Financial Action Task Force Styled Regional Bodies. There are seven of these around the world. And in 2005, the Financial Action Task Force removed Indonesia, the Philippines, the Cook Islands, and Nauru from its list of noncooperative countries and territories, as those countries enacted measures to meet basic international standards. That leaves only two countries on that list, Burma and Nigeria.

Last year, the U.S. Government also provided various kinds of anti-money laundering and terrorist financing training to over 100 countries around the world. That is a total of 130 countries where we have provided training since September 11. We also work with our partners in the G-8 and beyond. There are 12 members of the G-8 Counterterrorism Action Group, which was established in 2003, and those countries have now provided more than 200 coordinated technical assistance programs to more than 150 countries around the world.

Now, one of the September 11 Commission's recommendations focused on the need to include in our comprehensive counterterrorism strategy policies that encourage development and open societies, and I just want to underscore that we have not neglected that. Development is central to the national security strategy which the President issued on March 16. In addition to our core AID programs, we have very important policy tools, including the Millennium Challenge Account, the Heavily Indebted Poor Country initiative, an aggressive U.S. multilateral and bilateral trade agenda, and our bilateral investment treaties, all of these aimed at promoting growth, new employment, and reducing poverty.

We have also worked at the Department of State and with our colleagues in other agencies to address another critique of the September 11 Commission: Our public diplomacy efforts. In recent months, we have ramped up our efforts to get the message out before the public. When Under Secretary Levey and I and others travel to other countries around the world on terrorist financing issues, we try to make a point of meeting with local journalists. We provide briefings to foreign officials, journalists, and other professionals here in Washington.

We have worked hard to place opinion pieces by U.S. Government officials on combating terrorist financing in key media outlets around the world. One example, recently, we did an op-ed on the possible misuse of charitable donations. We have placed that in leading newspapers in seven countries including Saudi Arabia, Jordan, Indonesia, Sri Lanka, and the leading pan-Arab newspaper, and we are going to be placing it in European and African capitals in the days ahead.

As we met last July, to review where we were in this process before this Committee, we focused on the Middle East and Pakistan. I would just like to give a brief update, provided in more detail in my written statement on some of the highlights of what has hap-

pened over the last year in those areas but in a couple of other corners of the world, too.

In late July, we finished successfully negotiations to improve the effectiveness of U.N. sanctions targeting Taliban and Al Qaeda. We had a unanimously adopted U.N. Security Council Resolution No. 1617. That resolution clarified for all countries in the world what it means to be associated with Al Qaeda. It added enhanced due process conditions, and it endorsed the Financial Action Task Force's standards as international guidance on executing effective sanctions regimes for all the countries in the world.

That same Committee, the 1267 Sanctions Committee, has listed for sanctions over 300 persons and 100 entities, including 139 names that the United States has submitted, and this includes 35 new listings since last July, and that includes such groups as the Movement for Islamic Reform in Arabia and the Al-Aktar Trust, and seven different governments joined in those designations, so it is not just the United States acting.

Secretary Rice enacted the United States-Saudi Strategic dialogue in November 2005 in Riyadh, and that has a specific counterterrorism working group, which includes terrorist financing. We are going to have a second round of that dialogue later this year.

In late 2005, Saudi Arabia enacted regulations on cross-border movement of funds. It is also working to strengthen its financial investigations unit, which is up and running. Saudi Arabia is still working to establish a charities commission to regulate all charitable donations leaving the Kingdom, but in the interim, it has maintained very strict rules for any charity money leaving the country.

The United States and the United Arab Emirates established a joint terrorist financing coordinating committee, which we launched in January of this year. This is an interagency bilateral effort that allows high ranking officials to address a range of issues, including cash carriers, charities, and hawalas. A second meeting of this group will take place in the weeks ahead in Abu Dhabi. I believe my colleague Stuart Levey might be participating in that meeting. The UAE has also continued its role as organizing regional outreach on best practices. In November, they co-hosted a conference with my colleagues from the Department of Justice on investigating and prosecuting advanced financial crimes.

In Iraq, we continue to work on building up the capacity in that government. Iraq is in the process of establishing a money laundering reporting office in the central bank. We are working to build their capacity and to implement the day-to-day functions of a financial intelligence unit.

We have also worked very closely with Pakistan over the past year. Pakistan now has a proposed anti-money laundering law, which was drafted with U.S. assistance before the relevant parliamentary committees. Unfortunately, the lack of action on that law, which would set up a financial intelligence unit, has meant that we have been unable to accelerate some of our planned assistance. But we have maintained a close dialogue with the Government of Pakistan during the influx of resources that came in to meet the earthquake response and reconstruction needs in the last

half of 2005, with a goal of avoiding diversion of relief money to terrorism causes.

We are encouraged by Pakistan's concern that terrorist groups may be presenting themselves as charitable organizations. We would welcome the opportunity to provide technical assistance to help the Government of Pakistan meet international standards on preventing abuse of the nonprofit sector.

In Afghanistan, we have also been working very hard to build up their capacity to fight the financing of terrorism. There is a great deal of capacity-building that needs to take place in that country.

We have also worked hard in Indonesia over the last year, and there has been some good progress made, though performance in implementing U.N. sanctions remains an area for improvement. We have provided some training, including on the oversight of charities, and are assessing other areas where training might be appropriate.

In Europe, our cooperation with the European Union has increasingly helped inform broader cooperation on terrorist financing issues. We set up a dialogue with the European Union in the September 2004. We have interagency delegations which meet twice a year. We have informal expert groups which get together and talk about judicial technical assistance and designation issues.

This United States-European Union cooperation, combined with our bilateral cooperation with key member states of the European Union remains essential, as Europe remains a source for funding of terrorism and, as we were sadly reminded last July by the bombings in London, a site for terrorist activities.

In the campaign against terrorist financing, Mr. Chairman, we are moving beyond a focus on the freeze and seize tactics toward a more strategic approach to building coalitions with close partners, where we work together with diplomacy, intelligence, and law enforcement tools.

One anecdotal measure of the success of our present coalition building is the increasing use by terrorist financiers of riskier, more difficult and expensive means in preference to the more formal international financial system. Abuse of charities, of not-for-profit organizations, use of cash couriers, wire transfers, and other alternative remittance systems have become an increasing focus of our discussions and our cooperation with our international partners.

I welcome very much and look forward to your questions on the challenges we face today and what remains ahead of us to do. Thank you very much, Mr. Chairman.

Chairman SHELBY. Thank you, Secretary Wayne.

First, I have several questions for the record on behalf of Senator Crapo that he has asked that you answer. We will do that for the record; is that okay?

I have a number of questions. I will start with you, Secretary Levey. North Korean counterfeiting and money laundering operations, especially as they may relate to that regime's nuclear proliferation activities, are among the more troubling developments of the past year, at least with regard to the timing of announcements of U.S. Government actions, as such operations have been going on for many years.

Mr. Secretary, Treasury's designation of Banco Delta Asia as a primary money laundering concern and of eight North Korean companies for involvement with North Korean weapons of mass destruction programs, when taken together in the context, highlight the scale of the problem that we have as a challenge, that the country presents.

North Korea's production for a number of years of high quality \$100 Supernotes and the revenue generated by trafficking in narcotics and counterfeit goods, like cigarettes, I believe presents a definite threat to U.S. national security, Mr. Secretary.

Would you, Mr. Secretary, share with the Committee your assessment of the current state of the situation with respect to North Korean money laundering and counterfeit operations, the extent that Chinese banks have been used in these operations, and what has been China's response? What has been the response of South Korea to United States efforts at curbing these North Korean activities, which are more than troubling, I am sure, to you and us.

We will start with Secretary Levey and then Secretary Wayne.

Mr. LEVEY. Thank you, Mr. Chairman.

Chairman SHELBY. I know it is a lot of questions in one.

Mr. LEVEY. Well, I will take a cut, and if I leave something out, I am sure you will point it out to me and follow up.

As you indicate, the threat of North Korean illicit activity is real. They have engaged in a number of different types of illicit conduct; of course, proliferation of WMD is the most of concern, but also, they do counterfeit U.S. currency.

Chairman SHELBY. And they are good at it, are they not?

Mr. LEVEY. Yes, they are apparently very good at it; what we call the \$100 bill that they create is a Supernote. It is very high quality; if you have not seen it, it is interesting to see. I think you either have to be very highly trained or—

Chairman SHELBY. I hope I do not have any in my billfold. Of course, I do not have \$100.

[Laughter.]

Mr. LEVEY. The Secret Service can bring by a couple of samples for you.

And this is something that has been going on, as you indicate, for some time. Even as we have improved the security measures in our \$100 bill, they have followed along closely behind. An interesting point on that is that we changed the ink that we used in our \$100 bill to what the Secret Service calls an optically variable ink that costs about \$800 or \$900 a pound to create, and we pay a great deal to have the exclusive rights for that ink.

And then, right after we did that, North Korea revamped its currency and spent a lot of money to buy the same ink, which is an interesting development—

Chairman SHELBY. So you are not exclusive.

Mr. LEVEY. Not any more, and it is an interesting development for a country that does not have any worry about having its currency counterfeited.

Chairman SHELBY. Who produces the ink?

Mr. LEVEY. I do not think I have that information with me. I can follow up.

Chairman SHELBY. I hope it is not an American company.



Mr. LEVEY. Well, I will follow up with you on that.

Chairman SHELBY. Okay.

Mr. LEVEY. But the key point, as you indicate in your question, is the actions we have taken have highlighted this kind of activity, the proliferation, the drug trafficking, the counterfeiting of currency and have sent the message to responsible financial institutions and responsible governments that this is not the kind of conduct that you want to be associated with in your banks.

And we have gotten cooperation across the region. As soon as we took these actions, I made a trip to the region. It has been followed up with other trips to the region to talk to our partners, and you asked specifically about China and South Korea. They have been quite cooperative with us on this. They recognize this is a threat not only to our financial system but also to the global financial system, and everyone has a stake in that financial system. We have gotten excellent cooperation from all of our partners in the region, which is why, to get back to the original question, that is the reason why we have had a real impact on this. It has been because it is not just unilateral United States action but multilateral action with other countries and cooperation from the private sector.

That is what has, I believe, brought to bear a great deal of pressure on the threat we face from North Korean illicit activity.

Chairman SHELBY. Thank you.

Secretary Wayne, do you have any comment?

Mr. WAYNE. No, only that we are working very closely with Under Secretary Levey and his colleagues and are very supportive of what they are doing.

Chairman SHELBY. I would like to briefly address the situation with Saudi Arabia, Mr. Secretary or both Secretaries. In the aftermath of the Riyadh bombings in May 2003, the Saudi Government finally, Mr. Secretary, took some meaningful steps to stem the flow of Saudi money to terrorist organizations.

To the extent that most terrorist financing continues to involve voluntary contributions to organizations like Al Qaeda, Hamas, and Hezbollah as well as money funneled through nongovernmental organizations, however, very serious gaps between public statements and facts on the ground seem apparent to me. The State Department's Annual Money Laundering and Financial Crimes Report, Secretary Wayne, and a letter, Assistant Secretary Wayne, you sent to Congresswoman Sue Kelly seems to take an excessively diplomatic approach to continuing problems like the role of multinational charitable organizations located in Saudi Arabia and more directly, Saudi-run charitable committees, including those commonly referred to as Account 98 and Account 111, which channel Saudi donations to Iraq.

While the State Department report does note that the Saudis have yet to implement the National Commission for Relief and Charitable Work Abroad, the report's analysis leaves key questions unaddressed. And I will start with you, Secretary Levey. Could you address the issue of Saudi Arabian cooperation in combating terrorist financing? Is money leaving Saudi Arabia and ending up in terrorist coffers? Is the problem primarily one of bulk cash transfers, or is Saudi Arabia's financial system a conduit for this money?

If bulk cash is the principal means of transferring money, are the Saudis attempting to address that?

Secretary Levey first.

Mr. LEVEY. Okay; Mr. Chairman, again, you have a lot there.

Chairman SHELBY. I know that there is.

Mr. LEVEY. Let me see if I can cover as much of it as I can. First of all, I think you are right to say that the cooperation with Saudi Arabia has been significantly better since 2003, and we have seen significant improvements, both facts on the ground and in the tone of the relationship on counterterrorism.

Chairman SHELBY. Has it improved? Has it marginally improved?

Mr. LEVEY. I think it is fair to say it has improved. And I have been to Saudi Arabia twice in the last 2 months. My level of engagement has increased greatly. I met with the new Saudi Arabian ambassador several times, Prince Turki, including just this last Friday.

And I want to comment on all the things you raised, because I think there are serious concerns there that I want to raise, but I do want to preface it by saying that one thing I learned on my trip there is that when it comes to fighting Al Qaeda operatives in Saudi Arabia, they are really in the fight and really doing an excellent job.

Chairman SHELBY. In their own country or where it affects their own country?

Mr. LEVEY. Well, it is a global threat, and when they are fighting Al Qaeda in Saudi Arabia, it is good for us all. And they are doing a good job on that, and they are taking it very seriously. That said, there is still, as you indicated, a number of concerns. To answer your one question just directly, is money leaving Saudi Arabia to fund terrorism abroad? Yes.

Chairman SHELBY. Is some of that money going to Iraq?

Mr. LEVEY. Undoubtedly, some of that money is going to Iraq, and it is going to Southeast Asia, and it is going to any other place where there are terrorists. There is money leaving Saudi Arabia. I do not think that the Saudi Arabian Government would dispute that. They know that that is going on, and that is clearly the case.

Chairman SHELBY. And it is not pennies either, is it?

Mr. LEVEY. No, it is not pennies. So there is a lot of work to do on this. As you indicate, I would say two areas of principal concern: One is whether charitable organizations or NGO's are being abused still. I think that is an area of concern within Saudi Arabia. We have been over this in this Committee several times, and you know it quite well, that while there are rules that are in place that are supposed to be filling the gap until this charity commission gets stood up, they have not stood up the commission yet, and while those rules, if they were effectively enforced, would be a good stop-gap measure, they have not been uniformly enforced, and we have raised this concern several times with our Saudi counterparts, including the organizations that you are well familiar with, WAMI, the IIRO, and the Muslim World League. I continue to raise this, as I am sure Secretary Wayne does and others do, at every chance we have.

The second, though, is something which I think we should start thinking about a little separately, which is the individual donor who may be sending money directly not through an NGO budget somehow otherwise providing money to a terrorist organization.

Chairman SHELBY. That is not being tracked, is it, in Saudi Arabia?

Mr. LEVEY. Well, this is what I think is a work in progress that really needs the most attention, because as Secretary Wayne indicated in his testimony, they have stood up a financial intelligence unit. It is just starting. It is not where it needs to be. It is not an Egmont member. It is not a fully functioning FIU. But what needs to happen is they need to do financial investigations in a serious way in order to locate those deep pocket donors that are still funding terrorism abroad, and that is something that is a concern that has not happened as robustly as it needs to happen. The principle—

Chairman SHELBY. Do you have the will to do that, the government to have the will, considering Saudi Arabia has passed—

Mr. LEVEY. Well, what I look at is the statement that Prince Saud al Faisal made that this is something that should be done. When I talked to the people at the high levels of the Government, they say yes, this needs to be done, so I see the right strategy to be to hold them to it and say let us do it.

Chairman SHELBY. Mr. Secretary—

Mr. LEVEY. —and we are ready to help them.

Chairman SHELBY. Mr. Secretary, but is there not honestly, candidly here today a gap between the rhetoric of the officials in Saudi Arabia and the implementation of policy? Yes or no?

Mr. LEVEY. I would rather say that there is a lag.

Chairman SHELBY. Lag.

Mr. LEVEY. We will see if it becomes a gap.

Chairman SHELBY. Thank you, Mr. Secretary. We will come back in other rounds.

Senator Sarbanes, thank you for your indulgence.

#### STATEMENT OF SENATOR PAUL S. SARBANES

Senator SARBANES. Thank you very much, Mr. Chairman. I want to welcome the witnesses before us. I do want to commend you for your continuing leadership in giving priority to the Committee's oversight with respect to money laundering and terrorist financing.

Chairman SHELBY. Thank you. Well, you did it yourself as Chairman; did very well.

Senator SARBANES. It is obviously a very important subject.

I want to commend Under Secretary Levey and Under Secretary Wayne for their work in broadening information exchange and cooperation between the United States and especially countries in the Middle East. At the end of last year, the members of the September 11 Commission in reviewing progress since publication of their report gave the only A- of all the things they looked at to the Government's vigorous effort against terrorist financing.

But obviously, we cannot sit on our laurels, and it remains a very large problem. As the money laundering threat assessment, I think, makes very clear, and we welcome this report; it is the first, as I understand it, published just a few months ago by the working

group of the Departments of Treasury, Justice, Homeland Security, the Federal Reserve Board, and the United States Postal Service.

This report outlines significant methods by which funds may be laundered: Through depository institutions, money services businesses, online payment systems, informal remittance arrangements, cash smuggling, manipulation of relationships, insurance products, front entities and, casinos. So, it is a quite broad array of ways of moving money improperly.

There is a fair amount of clamor from some of the economic interests that they are being overburdened or over-regulated. On the other hand, we need this information, and we need to coordinate the information and to get at the problem. What is your perception with respect to that question?

Mr. LEVEY. Thank you, Senator Sarbanes. I think that you are absolutely right to look at the breadth of the ways that people can launder money and that there is a range of vulnerabilities that are out there.

That said, it is critical to our national security and economic security that we have a robust effort to stop money laundering, and there is really no way to do that without calling upon those on the front lines to work with us to provide us that information that is needed for us to do our work but more importantly for law enforcement to do its work.

We need to have that robust fight. We need to get that information, but we do need to be smart about it. I think we should always be asking ourselves the question: Is this regulatory burden that we are imposing worth the cost that it is imposing on the private sector?

And the Bank Secrecy Act, you know it probably better than anyone. It is a broad act. There is a lot of regulation underneath it, and we do need to continue to look at it to see what adjustments can be made. That is our obligation, and I believe that there are adjustments that can and should be made, but there are adjustments that probably can and should be made both ways. We should be looking at vulnerabilities that we might need to take action to regulate differently in order to plug those vulnerabilities, and at the same time, we should look at some of the regulation currently in place either to lift some burden or to find out from the industry, as Senator Crapo indicated in his opening statement, to find out from the industry the experience they are having, for example in not being able to use certain exemptions that are already in the law to see if we can make them more user-friendly.

I think we need to stay flexible and continue to make those adjustments.

Senator SARBANES. I am concerned that you have not gotten the system fully into place yet, as I understand it, and yet, now there are efforts underway to kind of dismantle at least part of the system. The threat recognition, for example, threat assessment recognition is accorded to the problem of correspondent accounts in shell banks. Yet, the rules under Section 312 were in part re-proposed after 4 years of review. What is the difficulty there with respect to implementing Section 312?

Mr. LEVEY. Well, as you know, Senator, we have been working on that for some time, and we have discussed this before. We did

issue a final rule on Section 312 in January, and we did repropose one provision of it, because in the intervening time, we had looked at that provision and decided that we wanted to make a change, which is something one often can do from a proposed rule to a final rule, but when we looked at it, we decided it was so significantly from what had originally been proposed that the only proper way to do it was to repropose and take comment.

We have now completed the comment period, and the intention would be to have that portion that was reproposed become effective, finalized, and effective on the same effective date as the rest of the rule so that we will have complete implementation on that effective date in July.

Senator SARBANES. In July? When would that date be?

Mr. LEVEY. In July.

Senator SARBANES. July, Mr. Chairman, I see that my time is up. Chairman SHELBY. Senator Carper.

#### **STATEMENT OF SENATOR THOMAS R. CARPER**

Senator CARPER. Thanks, Mr. Chairman, and to each of our witnesses, welcome. Thank you for joining us and for your testimony.

I am going to telegraph a pitch and let you know a question I am going to ask in a couple of minutes. It deals with the transaction reports; deals with the suspicious activity reports in the case of regulatory relief legislation which we may be considering here later this year.

I think Senator Crapo may have raised this in his statement; I do not know that he actually asked a question relating to it, but I plan to. And so, just put that in the back of your minds, if you will, and what I would like to do, you can tell here today, we are in and out with other hearings and things going on, and I just wanted to ask each of you, take maybe a minute or so and, I have not read your testimony. I may not read your testimony, although my staff person, Hillary Jockman, right behind me here, has read it carefully.

But just take a minute or two and just tell me, cover the key points that you would have us walk away from here to remember. Do it rather briefly each of you. Secretary Levey, why don't you start first?

Mr. LEVEY. Senator Carper, I do welcome that opportunity.

I think the key points that I would like to convey to this Committee is the value that we are seeing not just in the United States but internationally from increased transparency in the global financial system and the increased international coalition that includes not just governments, our partners abroad but also the private sector in saying that the financial system should not be abused by criminals, terrorist financiers, WMD proliferators.

It is essentially, we have put in place a fairly robust regulatory regime in the United States. It is not complete yet, as Senator Sarbanes points out, but it is pretty robust. And what we are seeing is agreement around the world and agreement from responsible financial institutions that it is really important not to allow those who want to engage in illicit activity to have access to financial services.

Senator CARPER. Good.

Mr. LEVEY. And that has real effect on the bad guys who want to use it.

Senator CARPER. All right; thank you.

Secretary Wayne.

Mr. WAYNE. Senator, just to build on that same theme, I think the key point is this is a long-term effort. We have made a good start at building an international coalition but to start where we have coalition members with different capacities, with different legal frameworks and then with a different understanding of how to put those legal frameworks in place.

We need to keep working to solidify that coalition and to take it in new directions, both to build capacity as we may be doing in the Persian Gulf area. For example, a number of those countries are now just putting in cash declaration systems, that we have had for quite awhile, to get at the bulk cash issue that you raised, Mr. Chairman, but also to help us work together to adapt as the terrorists and their financiers are adapting to use new means of getting their funds around.

And we just have to keep broadening and deepening this over time in law enforcement, in intelligence, in diplomatic channels, and that is the path we are on, and we need to keep at it.

Senator CARPER. Good; all right; thank you.

Now to my other question: Take, if you will, I have a couple of minutes left here, so I am going to ask you just to go through this quickly. Take just a moment and just remind us of when do these currency transaction reports have to be filed, when do the suspicious activity reports need to be filed, and then, I want to ask you to consider: We had testimony here I guess a couple of weeks ago. Folks came in and testified from financial institutions, and they said we have customers who come in; they are regular customers; they come in routinely, deposit large amounts of money. We know them. We have known them for years, and we do not know that it makes a lot of sense for us to continue to file these reports for those people.

That is one of the ideas that we will be considering if we take up regulatory relief, and I would like to have your comments on that question or a variation of that question, if you will.

Mr. LEVEY. I think I will save Secretary Wayne from that, since I think it really falls more to me.

The basic point, and as with any regulation, there are lots of exceptions and details to this.

Senator CARPER. Start with the first part of my question. When do they have to be filed?

Mr. LEVEY. Yes, when do they have to be filed? Suspicious activity reports generally have to be filed by those who are covered by that regulation whenever they recognize suspicious activity, but they are not filed, and this is the key difference between them and currency transaction reports, they are not filed that day. They are not instantaneous; they are not automatic.

Currency transaction reports are filed promptly upon a currency transaction above the threshold occurring unless it falls into one of the exceptions that are in the rule. That is the basic background. The question that I think you want me to address is whether we

are getting too many currency transaction reports and therefore putting too much burden on the private sector.

Senator CARPER. We hear it is too much burden on the private sector. They are not sure for what purpose, and the second part of it is in terms of the enforcement, the people who are doing the enforcement, are they getting actually more reports than they need to spend time looking at the ones that are not really going to give them anything in terms of valuable information, and they do not take enough time to look at the stuff they should be examining?

Mr. LEVEY. Well, I think what we have found is that, and there will be a law enforcement panel to follow up on this, that the currency transaction reports have turned out to be quite valuable to law enforcement. The FBI, for example, puts them in their database, and they find that a huge number of them are matching up with ongoing investigations, and they are providing leads and actionable leads in those investigations.

And the thing that is interesting, Senator Carper, is that it is not just the ones that are of a higher threshold; in other words, where the transaction is of a higher amount. It is also very much the ones that are just over the \$10,000 threshold, which, of course, suggest that one of the easy things that people think about to do to reduce the number of filings would actually be not particularly effective, which would be to raise the threshold.

Having said that, I think that everyone who looks at this in good faith would agree that too many currency transaction reports are being filed. Some of them are being filed that are not particularly useful to law enforcement. I want to make a point here that that does not really bother law enforcement that much.

Chairman SHELBY. Explain what you mean by that, not very useful; that is important. I think that is some of the issue Senator Crapo is raising.

Mr. LEVEY. It is what Senator Carper was getting at, that some of them are filed for customers where we know, where the customer, they know that it is not particularly suspicious; there is no real potential for it to be a law enforcement lead.

The difficult issue is how to identify which ones those are, because it is not just the ones that are between \$10,000 and \$15,000, for example. And that poses a real problem. When I say law enforcement does not mind, it is because the way law enforcement uses the currency transaction reports is essentially through electronic searching. And so, they are able to search the data, whether there is x number of CTR's in the database or 10x number of CTR's in the database.

So in order for us to help the private sector get out from underneath this burden, I think we need to come up with a way to either try to identify which ones are not particularly useful or to try to make the current exemptions that already exist in the regulations more user-friendly, because for whatever reason, and actually, Senator Crapo identified what the financial sector is saying about this, there are exemptions that already exist that are not being used to their full extent, either because there is too much burden in applying of right exemption or because they are second guessed by the regulator if they file an exemption; someone says wait, that person should not have been exempt.

This is something where we really need to keep working on this so that we can try to identify a good way forward. One proposal that is out there that I think is a good one is to let the GAO do an investigation. It is not usually what I come up and ask for, but in this case, I think it is a really good idea to have the GAO take a look at this and see if they can help us identify ways that would both reduce the burden but not take away from law enforcement what is valuable and what is important to our national security.

Senator CARPER. All right; good, well, thanks a lot. Thanks for that recommendation, too.

Thanks, Mr. Chairman.

Chairman SHELBY. Thank you, Senator.

Secretary Levey, I have a number of questions. FinCEN reports that about half a billion dollars of suspicious activity reports were filed on average for each of the last years on the convergence of shell corporations, Eastern European countries, and the use of correspondent bank accounts. The FBI believes that U.S. shell companies are being used to launder as much as \$36 billion a year from Russia and others.

The New York State Banking Department recently noted a spike in the volume of shell company wire transfer activity through high risk correspondent bank accounts, both in terms of dollar amounts and the number of transactions. Mr. Secretary, do you think the advantages of using these corporate structures for legitimate business purposes are now being outweighed by the potential for their abuse? Has Treasury worked up any specific steps which can be taken to reduce the risk to our financial system while preserving the advantage of their corporate structure for their legitimate business use as opposed to illegitimate use? Is that a concern to you?

Mr. LEVEY. Well, yes, Mr. Chairman, it is. And I want to start by saying there are legitimate uses for the corporate form.

Chairman SHELBY. There are.

Mr. LEVEY. And we want to be sure that we do not deprive the business community of something that is critically important. So it is not a question—I think the question that you asked about are there ways to reduce this risk—

Chairman SHELBY. Absolutely.

Mr. LEVEY. —is really the way to approach this rather than—

Chairman SHELBY. And meet your goal of combating terrorist financing, money laundering, criminal activity, all that.

Mr. LEVEY. Absolutely; that is exactly the point.

Almost all of the things that we try to do in the financial system to prevent money laundering can be generally described as trying to increase transparency in the system, so that when there is a law enforcement investigation going on, people do not run into dead ends; they can see what is behind; they can understand who really is involved in the transaction, who really owns a corporation, who really owns the account.

Chairman SHELBY. Does that get to know your customer, maybe?

Mr. LEVEY. That is exactly what know your customer rules are all about. So we generally want financial institutions to know who their customers are and who is behind them.

The problem with these shell companies is that they create situations where you get to that corporate form, and the investigator



does not know what is behind that. I have actually had experience where I was traveling in a country where they were just standing up their ability to do money laundering investigations, and I sat down and said, well, what can we do to help, thinking that they were going to ask for technical assistance or something, but they said can you do something about these shell companies in the United States, because all my investigations are running into something where I cannot get behind that shell company?

We are working on this. As you know, this is one of the things in the threat assessment. There are a number of things that are possible to be done here that we are considering, but one thing that we have already started to do, which I think may be the most fruitful avenue, which is to talk to the States.

I am sure that the States do not really want to be in a race to the bottom in terms of the level of lack of scrutiny they put into this process, and so, we have talked with the National Association of Secretaries of State, pointed out this problem. I want to work with them on this. This is not something, though, I think, Mr. Chairman, that we have to be careful here; you know, State corporate law is the way our country is organized. You know that a lot better than I do. And we have to be careful not to overstep what is appropriate for us to do in this area. If we can work on this cooperatively—

Chairman SHELBY. In other words, you do not want to destroy legitimate business entities.

Mr. LEVEY. And our Federal system where that is handled on the State level.

Chairman SHELBY. Right.

Mr. LEVEY. But we want to work with the States cooperatively to see if we can improve on this.

Senator SARBANES. Well, if the States are going to provide, in effect, a loophole, then, we have a serious problem on our hands, do we not?

Chairman SHELBY. We cannot have that. He is right.

Senator SARBANES. I see in your report, you say legal jurisdictions, whether States within the United States or entities elsewhere that offer strict secrecy laws, lax regulatory and supervisory regimes and corporate registries that safeguard anonymity are obvious targets for money launderers.

A handful of U.S. States offer company registrations with cloaking features such as minimal information requirements and limited oversight that rival those offered by offshore financial centers. And then, you go on to detail the problems that this raises. Is that not correct?

Mr. LEVEY. Absolutely, Senator Sarbanes, but my point is just that this is something which I have—at least in the first instance would like to let the States, you know, talk to the States, point out this issue to them. It might be something well-known to people on this Committee who have been studying this and working on this for a long time, but I do not know if this is raised on the radar screens of the people who make these rules in these States, and I would like to see if we can work with them cooperatively to close this—

Senator CARPER. Mr. Chairman, would you yield?

Chairman SHELBY. I will yield, Senator Carper.

Senator CARPER. I would just say that I think you are on the right track there. And that is the consultation that I think is well advised and would be appreciated.

Thank you.

Chairman SHELBY. You can tell when you have a former governor on the panel.

[Laughter.]

Secretary Levey, I think Senator Sarbanes raises an important point, though. Terrorist financing deals with national security. We cannot afford, I believe, to let the States create a loophole that would be used to abuse our financial system or to aid and abet money laundering, criminal activity, terrorist financing in any way. I know there is a delicate balance there, but national security will trump all of that; I hope so anyway.

Mr. LEVEY. I completely agree, and if we end up not getting cooperation on this—

Chairman SHELBY. Absolutely.

Mr. LEVEY. But the first step, I think, should be—

Chairman SHELBY. Sure, we understand. Like Senator Carper, former Governor of Delaware, he understands that.

Secretary Levey and Secretary Wayne, investigations have linked black market cigarette sales, I mentioned this earlier, which are on the rise in the United States to Mexican gangs and Asian mafia groups, where some of these rings also have lucrative links to such groups as Al Qaeda, Hamas, and Hezbollah. There are persistent reports of heroin trafficking financing, terror, coming from Congressional factfinders and American generals alike. You have seen that.

DEA statistics show that nearly half of the 41 groups on the Government's list of terrorist organizations are tied to narcotics trafficking. The FBI has reported that there is evidence that U.S. automobile theft rings in the United States have smuggled cars out of the country as part of a widespread criminal network that includes terrorists and insurgents.

In the triborder area of South America that you referenced earlier, the State Department reports, Secretary Wayne, that it is concerned that proceeds from narcotics and piracy of goods may be used to raise funds for terrorist groups like Hezbollah.

James G. Conway, the legal attaché at our embassy in Mexico has said, "where you find terrorists, you often find some kind of criminal activity." My questions, I am going to ask three of them, Secretary Wayne and Secretary Levey: One, is the world now seeing the birth of a new hybrid of organized crime/terrorist organization combination? Two, from a terrorist financing perspective, what do these examples mean to the funding of future operations or even the movement of funds themselves? And three, considering the dizzying array of jurisdiction, how does this affect coordination among State, Federal, and international agencies?

Secretary Levey first and then Secretary Wayne. I know that is a mouthful, but these are important issues.

Mr. LEVEY. No, absolutely, Mr. Chairman. I think one of the things that we have seen is that as Al Qaeda is becoming more fragmented, we are having more self-funding cells of Al Qaeda, and

sometimes, those are being funded through criminal activity, and I think that is part of what you have referenced in your question. I think that first of all, there is a silver lining to that. There is a positive side to that, which is that, one, it indicates that the network has been degraded in a certain way.

But second and perhaps more importantly, engaging in crime by a terrorist operative is a vulnerability, because it gives law enforcement a chance to do what our law enforcement now has as its highest mission, which is to prevent. If you can prosecute someone for credit card fraud or some petty crime and prevent a terrorist attack, that is a huge victory.

Chairman SHELBY. But in the aggregate, credit card fraud is billions of dollars, is it not? I mean, it might be small transactions, but it is billions of dollars, as you know.

Mr. LEVEY. And the problem of financial crime is broader, but I just want to make the point that if, in fact, terrorists are turning more and more to criminal activity, that is something that gives us an opportunity that we would not have if they simply were being funded by either a State sponsor or a donor, because they are engaging in activity that allows us to preempt them and take them off the street, quite frankly.

The other point that I would make in response to your question is that it does highlight the importance of international cooperation by law enforcement. And I know both from my time at Justice and from my close coordination with Mr. Morehart and Mr. Delli-Colli, who are going to testify later, that this is something that our law enforcement agencies understand well, and a lot of our international cooperation on law enforcement is, first of all, everyone wants to stop crime, but it also has this counterterrorism purpose to it, because, you know, international crime is also a way to fund international terrorism.

But the last point I would make is that this Committee is very focused on terrorist financing, and I think we have to be very clear when we talk about terrorist financing, that it is still our belief, that while there is criminal proceeds going to terrorism, that is not, I would say that is not—when I think about what money is going to terrorist organizations, there are still state sponsorship and private donors that are of greater concern, and it is certainly in greater amounts.

And I want to make sure that, of course, everyone wants to fight crime, and it is worth doing even if they were not funding terrorism, but when we focus on terrorist financing, I want to make sure that we keep our eye on the highest priority, which is to stop those efforts.

Chairman SHELBY. Secretary Wayne, do you have any comments?

Mr. WAYNE. Yes, thank you, Senator.

Just to add that to underscore what Under Secretary Levey said, we have noticed this trend, that as we have been more successful in cutting the normal channels for large flows of money, people have turned to self-financing. And so, we have recognized also in our own work with our colleagues, particularly in the law enforcement agencies, that we need to think through those challenges also, and we have particularly seen in Europe with a number of the

terrorist acts that have gone on there evidence that there was local financing of these by illicit activities. So it is an area that we have to pay attention to.

We have also, in the triborder area, noted that this is a particular area where there is a lot of illegal commerce going on. We have not seen any evidence that there is terrorist activity going on but—

Chairman SHELBY. There is a lot of money coming out.

Mr. WAYNE. But we have seen money flowing back to Hezbollah, particularly in one case.

Chairman SHELBY. And a lot of money, is it not.

Mr. WAYNE. And potentially a lot of other money there.

So we have focused, and Under Secretary Levey's colleagues Assistant Secretary O'Brien has recently been down there, and our embassies have been working hard on this. We focused on getting the Governments of Brazil, Paraguay, and Argentina to put the right kind of legislation in place to train their people up to really take this on.

Chairman SHELBY. Are you making any progress there?

Mr. WAYNE. Well, I think we are.

Chairman SHELBY. Are they capable of doing this? Do they have the will to do this in the triborder area?

Mr. WAYNE. In Argentina, they just passed a law recently to stiffen up their—

Chairman SHELBY. What about Brazil?

Mr. WAYNE. And Brazil is also showing more interest in this, and they are actually taking leadership in the regional FATF-like body there.

Chairman SHELBY. What about Paraguay?

Mr. WAYNE. Paraguay, we just raised this. I had several ministers from Paraguay here last week. There is a law that would tighten up a new money laundering law would go into place. It is going to their parliament. They are very committed to getting it passed. They said President Duarte is committed to getting it passed.

And there is no doubt they very much appreciate the technical assistance we have also been providing them to help tackle these kinds of problems. So this is an area where we are paying attention, and it is important to look. And there are similar areas like that in other parts of the world where we do need to pay attention also.

Chairman SHELBY. Secretary Levey, would you just touch briefly again on—I am going to ask the question—how involved, to your knowledge, is—well, how much money is flowing from Saudi Arabia into Iraq to aid the terrorists? Is there any way to put a handle on that?

Mr. LEVEY. I do not have a number that would be reliable or authoritative on that.

Chairman SHELBY. But it is real money, is it not?

Mr. LEVEY. I am sure that there is money that is going from Saudi Arabia to Iraq. I want to say, and this is important, I think the Government of Saudi Arabia has been very supportive to us in helping us with the insurgency.

They also do view, quite frankly, and this feeds into your other theme, Mr. Chairman, they view the potential of returning insurgents to Saudi Arabia as a real threat inside of Saudi Arabia, and so, they have been working with us quite closely on that issue, and they also want to see the insurgency defeated.

Chairman SHELBY. What is the role of Iran in all this financing of terrorism? We know it is real.

Mr. LEVEY. I think the Secretary of State, Mr. Wayne will correct me if I am wrong, I think she referred to Iran as the central banker of terror.

Chairman SHELBY. Central banker of terror.

Mr. LEVEY. And I think that fits it well.

Chairman SHELBY. And you have no cooperation there, of course.

Mr. LEVEY. Of course not.

Chairman SHELBY. Secretary Levey, you were recently in Turkey yourself. Could you provide quickly an assessment on that country's level of cooperation? How would Turkey rate if graded by the Financial Action Task Force today on cooperation in our fight against criminal activity and terrorism?

Mr. LEVEY. Give me just a moment, Mr. Chairman.

Chairman SHELBY. Go ahead.

Mr. LEVEY. As you indicated, I was there, and I know that you were also there.

Chairman SHELBY. I was there last spring.

Mr. LEVEY. We followed each other fairly closely.

The direct answer to your question is we are going to find out how they are going to do in a FATF evaluation.

Chairman SHELBY. We will evaluate it.

Mr. LEVEY. They are about to get evaluated either late this year or early in 2007. I have to say, and normally, I like to say, oh, I went and visited a country, and then, there were improvements, and I take credit in some bizarre way for what happened.

Chairman SHELBY. It is more complicated than that, is it not?

Mr. LEVEY. In this instance, I think, while we have raised the issue, and we have gotten higher level attention there, there are still some significant problems with their law. The most striking to me is that the definition of terrorism in Turkey, it is not a terrorist act unless it targets a Turkish citizen.

And when you think about the international coalition that is viewing terrorism as a global problem, that is really out of step. They also have not established a money laundering predicate for terrorist financing of international terrorist organizations. Another one, they have the possibility of filing suspicious transaction reports in their system, but there is no safe harbor for the person filing it. So when you think about what that means, you are the banker, and you file it, your customer can come after you for filing the suspicious transaction report. Of course, that is a huge disincentive to doing that.

And at least at the time I visited, and I have not heard that this has improved, they had had no successful money laundering prosecutions in Turkey. And given the huge drug trafficking that is there and the success that they have had on the law enforcement side against drug trafficking, that is a problem.

Having said all that, we do have indications that this is something that they take seriously and are making moves to improve. I hope that the FATF evaluation is a good deadline for them. And I know also that we have gotten good cooperation on certain issues. I can think of one off the top of my head of a very significant Al Qaeda operative who was taken down and disrupted in Turkey. And so, you know, if you take a step back, you know, that is something that is perhaps more important than anything else.

Chairman SHELBY. An unnamed Treasury official was recently quoted in *U.S. News and World Report* as noting with respect to the scale of money laundering and terrorist financing in the Middle East and North Africa that as much as half the economies of the nations in the region were "off the books." Is that about right? Or would you be surprised?

Mr. LEVEY. I know why that person is unnamed. I cannot verify that. I have no idea where—

Chairman SHELBY. You have a lot of work to do in that area, though, do you not?

Mr. LEVEY. We do have a lot of work to do in that area, but I am not going to embrace that comment.

Chairman SHELBY. You are not going to dispute it either, are you?

Mr. LEVEY. I do not have the facts to dispute it, but I doubt it. I think that is pretty—that might be—

Chairman SHELBY. That half is too much.

Mr. LEVEY. Okay; the half is too much.

Chairman SHELBY. Senator Sarbanes, thank you.

Senator SARBANES. Mr. Chairman, I will be brief. I know we have another panel coming.

As your report makes clear, there are quite a number of agencies and departments of our Government that are involved in dealing with this problem. How do we coordinate all this work? How do we assure that there is a coordinated plan and coordinated implementation?

Mr. LEVEY. Well, if I can take that, I am sure Assistant Secretary Wayne will want to do that, too, this is something which we have worked on very hard and I think we have been quite successful on. Certainly, we have coordination through the National Security Council, as a lot of other topics do, where we come together and discuss terrorist financing priorities, and we also all recognize that terrorism financing is part of a larger mission of counterterrorism.

Senator SARBANES. How often do you come together for this discussion?

Mr. WAYNE. At different levels, we come together at different times. We meet every couple of weeks at assistant secretary, under secretary level. There are weekly meetings at working level and office director and deputy assistant secretary level. Periodically, there are higher level meetings that come together, and then, somewhat less periodically, deputies level meetings that come together.

Senator SARBANES. Who chairs these meetings?

Mr. WAYNE. The National Security Council chairs the assistant secretary level meetings that take place every 2 weeks.

Senator SARBANES. Who is that?

Mr. WAYNE. Juan Zarate who chairs those meetings at the National Security Council.

Senator SARBANES. Okay.

Mr. WAYNE. We then have other meetings that handle specialized areas that are chaired by different agencies. The State Department, for example, calls together every 2 weeks an interagency group to talk about coalition building issue: How can we get a certain country to work with us more efficiently? What is the kind of approach we need to build that cooperation?

There are other groups that get together to talk about other topics which we would not bring out in this hearing necessarily. But it is a very complex system that we continually are trying to improve to make it more effective.

Senator SARBANES. And does the National Security Council oversee the implementation by the various agencies? Who ensures that there is follow-through in carrying out the tasks?

Mr. WAYNE. As a general matter, that is the case, although I think it is worth noting that with the new National Counterterrorism Center that was created under the leadership of Admiral Redd, that will be one of the functions that will be taken on, a monitor to make sure that particular actions are followed through and then assess the effectiveness to help us plan for the future.

And that is a new addition, obviously, to the whole counterterrorism architecture, if you will, in the Government that is being stood up. You know, it started from scratch, as I am sure you know, and they are working hard to stand that up. But that will be, I think, one of the functions that it is slated for them to take on.

Senator SARBANES. How often does this issue go to levels above your levels within your Departments?

Mr. LEVEY. The issues within our Departments?

Senator SARBANES. No, the money laundering issue becomes the subject of attention of officials in your Departments above the level of those of you that are here today.

Mr. LEVEY. In my Department, all the time. I discuss these issues, particularly the terrorism issues and the issues we discussed about North Korea, but also, any of the national security issues, I discuss them regularly with Deputy Secretary Kimmitt and Secretary Snow.

Senator SARBANES. And how often do Snow and/or Kimmitt meet at a higher level with—well, do you discuss them above your level, Mr. Wayne?

Mr. WAYNE. Yes, particularly if we are going to take major action or public action. By law, of course, this needs to be coordinated between the Secretary of State and the Secretary of the Treasury when we are taking a public designation.

Senator SARBANES. This coordination that happens every 2 weeks at your level, as I understand it, is that correct? Not just the two of you but the other agencies, too.

Mr. WAYNE. The larger group.

Senator SARBANES. How often does such a meeting occur at levels above your level, an interagency, interdepartmental meeting?

Mr. LEVEY. I think that on particular issues such as some of the ones we have discussed, although I probably should not name those issues in this forum, the deputies and principals meet regularly, every week, sometimes twice a week, and there will be a slice of what we have discussed will be part of particular meetings. And so, there is discussion of particularly counterterrorism issues that occur at the deputies' and principals' levels. I cannot tell you exactly how often, but there are NSC meetings a couple of times a week.

Senator SARBANES. I am trying to get at whether those people meet to discuss the money laundering issue.

Mr. LEVEY. I would say that the money laundering issues are rarely discussed at the principals level in an NSC-type setting. There are different components of it that may come up in particular meetings, but it comes up more episodically, depending on the broader issue being discussed.

Chairman SHELBY. Secretary Levey, as you know, you are Treasury. We were surprised at the lack of the attention on the highest levels, the Secretary of the Treasury and the Deputy Secretary of Treasury Kimmitt, Snow and Kimmitt, as far as the Committee on Foreign Investment, CFIUS, was concerned.

I know this is different from CFIUS but at the same time very important. We believe that you, both of you, are very involved, but we hope, and I think Senator Sarbanes is on to something here, that the Deputy Secretary of the Treasury and the Secretary of the Treasury should be hands-on with you and your staff as to what is going on with money laundering, criminal activity, terrorist financing on that level; so should the Secretary of State, I believe.

Senator SARBANES. I agree with that.

Chairman SHELBY. I think that is a good question that he raised here.

Senator SARBANES. Thank you.

Chairman SHELBY. Because no one knew, according to their statements, that the Dubai Ports thing had been approved: The Secretary of the Treasury, the President of the United States, the Deputy Secretary; nobody. We cannot have that anywhere anymore. They have to be hands-on. Am I right?

Mr. LEVEY. You are right.

Chairman SHELBY. Senator Sarbanes is right on point.

Mr. LEVEY. —that my two bosses are very focused, particularly on these national security issues, and they are very up to speed.

Senator SARBANES. Well, but they are not engaged in the kind of interagency discussion and focus at the highest levels that this issue warrants, it seems to me.

Mr. LEVEY. I do not know what particular periodic meetings you think are appropriate, but they do, these issues are discussed at deputies' and principals' meetings in the context of other issues. And so, if there will be some broader issue, there will be the terrorism, the money laundering issue that will come up in that context, and that is not rare.

Chairman SHELBY. Thank you.

Thank you, gentlemen. We will continue to work with you as we have in the past.



Chairman SHELBY. We have another panel, Mr. Michael Morehart, Chief, Terrorist Financing Operations Section, Federal Bureau of Investigation; Mr. Kevin Delli-Colli, Assistant Director, Financial Investigations, Immigration and Customs Enforcement, Department of Homeland Security.

Gentlemen, we will welcome both of you here. Your written testimony will be made part of the record, as it always is at the hearing here, and Mr. Morehart, we will start with you. Welcome to the Committee.

**STATEMENT OF MICHAEL MOREHART  
CHIEF, TERRORIST FINANCING OPERATIONS SECTION,  
COUNTERTERRORISM DIVISION,  
FEDERAL BUREAU OF INVESTIGATION**

Mr. MOREHART. Thank you. Good morning, Chairman Shelby, Ranking Member Sarbanes, and other distinguished Members of the Committee.

On behalf of the FBI, I am honored to appear before you here today to discuss the FBI's efforts to disrupt and dismantle national and international money laundering operations and the operational impact of the successful utilization of information obtained from the financial sector. Chief among the investigative responsibilities of the FBI is the mission to proactively neutralize threats to the economic and national security of the United States.

Whether motivated by criminal greed or radical ideology, the activity underlying both criminal and counterterrorism investigations is best prevented by lawful access to financial information by the law enforcement and intelligence communities.

In the criminal greed model, the FBI utilizes a two-step approach to deprive the criminal of the proceeds of his or her crime. The first step involves aggressively investigating the underlying criminal activity, which establishes the specified unlawful activity requirement of the Federal money laundering statutes. And the second step involves following the money to identify the financial infrastructures used to launder the proceeds of that criminal activity.

In the counterterrorism model, the keystone of the FBI's strategy is countering the manner in which terror networks recruit, plan, and effect operations, each of which requires a measure of financial support. The FBI established the Terrorist Financing Operations Section of the Counterterrorism Division on the premise that the required financial support of terrorism includes the generation, movement, storage, and expenditure of resources, which are often-times identifiable and traceable through records published by financial institutions.

The analysis of financial records provides law enforcement and the intelligence community real opportunities to proactively identify criminal enterprises and terrorist networks and disrupt their nefarious designs. Money laundering has a significant impact on the global economy. The International Monetary Fund estimates that money laundering could account for 2 to 5 percent of the world's gross domestic product. In some countries, people eschew formal banking systems in favor of informal value transfer systems such as hawalas or trade-based money laundering schemes such as the Colombian Black Market Peso Exchange.

There are several more formalized venues the criminals use to launder the proceeds of their crimes, the most common of which is the U.S. banking system, followed by cash-intensive businesses like gas stations and convenience stores, offshore banking, shell companies, bulk cash smuggling operations, and casinos, for example. Money services businesses such as money transmitters and issuers of money orders or stored value cards, for that matter, serve an important and useful role in our society but are also particularly vulnerable to money laundering activities.

The FBI currently has over 1,200 pending cases involving some aspect of money laundering, with proceeds drawn from a variety of traditional criminal activities as well as terrorism. By first addressing the underlying criminal activity and then following the money, the FBI has been able to make significant inroads into the financial infrastructure of domestic and international criminal and terrorist organizations, thereby depriving the criminal element of illegal profits from their schemes.

In recent years, the international community has become more aware of the economic and political dangers of money laundering and has formed alliances on several fronts to share information and join investigations. As our predecessors Under Secretary Levey and Assistant Secretary Wayne mentioned, those include the Egmont Group, and I will not go into an explanation of that, as they already have, as well as the FATF's.

Congress has also assisted our efforts by passage of the USA PATRIOT Act. As Section 319(a) of the USA PATRIOT Act now permits the Government to seize assets held in U.S. correspondent accounts in lieu of criminal proceeds deposited abroad in a foreign bank. Access to financial information significantly enhances the ability of law enforcement and members of the intelligence community to thwart the activities of terrorists.

The lack of complete transparency in the financial regulatory system is a weakness on which money launderers and facilitators of terrorism rely and has proven to be critical to the financing of global terrorism. Limited access to financial records inhibits law enforcement's ability to identify the financial activities of terror networks.

Efforts to detect terrorist activity through financial analysis are further complicated by the fact that the funding of terrorism may differ from traditional money laundering, because funds used to support terrorism are sometimes legitimately acquired; that is, for example, charitable contributions and business proceeds.

Overcoming these challenges in our efforts to prevent terror acts has required increased cooperation with the private financial and charitable sectors. Records produced and maintained by financial institutions pursuant to the Bank Secrecy Act, otherwise known as BSA, are of considerable value to these critical efforts.

As I previously testified to the U.S. House of Representatives Committee on Financial Services, the FBI enjoys a cooperative and productive relationship with FinCEN, the purveyor of BSA information. This cooperation has broadened the FBI's access to BSA data, which in turn has allowed us to analyze this data in ways that were not previously possible.

When BSA data is combined with the sum of information collected by the law enforcement and intelligence communities, investigators are better able to connect the dots and thus are able to identify the methodology employed to transfer currency or move value.

Sometimes, the investigative significance of BSA data filings cannot be appreciated until the BSA data is compared to predicated law enforcement and intelligence information that may not be of public record. Such critical information can be biographical and descriptive information, the identification of previously unknown associates and co-conspirators, and in certain instances, the location of a subject by time and place.

The value of BSA data cannot be overstated. The importance of access to that information has already proven invaluable on both the micro level; that is, individual case level, as well as the macro or strategic level. BSA data has proven its utility in counterterrorism matters, and any contemplated change to the underlying reporting requirements of the BSA should be measured and carefully considered before such action is taken.

Either increasing the transaction amount at which CTR's, otherwise known as currency transaction reports, would be generated or abolishing the recordation requirement altogether in certain instances would deprive law enforcement of what has proven to be valuable intelligence.

Recent analysis on the macro level of the impact of BSA data provided by FinCEN to the FBI reinforces the investigative significance of that data; for example, for the years 2000 through 2005, 38.6 percent of all CTR's filed reported amounts between \$10,000 and \$14,999. For the same period, roughly 18 percent of all CTR's filed reported amounts between \$15,000 and \$19,999. CTR reporting amounts between \$20,000 and \$25,000 comprised nearly 11 percent of CTR's for that same time period. For the amounts \$25,000 to \$30,000, they comprised about 6.2 percent of all CTR's. And CTR's between \$30,000 and \$35,000 were about 4.7 percent of all CTR's. Transaction amounts reported between \$35,000 and \$100,000 accounted for 19 percent, and CTR's reporting more than \$100,000 accounted for about 2 percent during that same time period.

To determine the operational impact, the value, that is, of BSA data relative to FBI investigations, a sample of FBI records for the years 2000 through 2005 were matched by exact name and date of birth to almost 13,000 CTR's reported in that same time period. This statistical sample, if you extrapolated it to the universe of CTR's allowed us to conclude that in excess of 3.1 million CTR's were pertinent to FBI investigations during that time period.

The breakdown of the sample CTR's deemed relevant to those FBI investigations revealed some of the following: About 29 percent of the CTR's reported transactions between \$10,000 and \$15,000, and 20 percent reported transactions between \$15,000 and \$20,000, thereby nearly half the transactions were for amounts between \$10,000 and \$20,000. The remainder was for transactions between \$20,000 and \$35,000.

The \$10,000 CTR threshold was established in 1973. Since that time, technology associated with the movement of money has ad-

vanced significantly. As a result, the movement of funds through electronic means has now become the standard. It should be noted that CTR's are not required for the electronic movement of funds.

The practical effect on law enforcement activities of an increase in the CTR threshold reporting amount would be to severely limit or even preclude law enforcement access to financial data associated with cash transactions that would not otherwise be reported. In other words, the filing of CTR's at the current reporting threshold ensures a degree of transparency, as was mentioned by Under Secretary Levey, in the financial system that would not otherwise be available to us.

Another topic of importance with respect to the filing of CTR's is the seasoned customer exemption. As you are aware, the BSA allows financial institutions to seek CTR filing exemptions pursuant to what is known as the designated exempt persons protocol. We are opposed to any such exemption for long-term, well-established, and documented customers that would be for a class of customer beyond the current regulatory regime, which includes ineligible, nonlisted businesses such as money service businesses. We would also caution against the use of a specified time period as a primary requirement for the exemption under the DEP.

While Section 314(a) requests and suspicious activity requests, otherwise known as SAR's, are extremely valuable tools, the notion that these tools are a substitute for the intelligence gleaned from currency transaction reporting is inaccurate. CTR's are objective reports, the document an event in time providing such information as the identity of the transactor or transactors, the bank name, the account number, the account owner, and the dollar amount.

Additionally, these reports are available for at least a 10-year period, and investigators and analysts have the ability to directly query these reports when necessary. In contrast, the 314(a) process is only used in the most significant terrorism and money laundering investigations and only after all other financial leads have been exhausted, which includes reviewing CTR's.

The banks are only required to review accounts maintained by named subjects during the preceding 12 months and transactions conducted within the last 6 months, in sharp contrast to the 10 years of data provided by CTR's. Moreover, SAR's are only available on select matters, where a bank official has made a subjective determination that a particular transaction or activity is suspicious. Although the banks are doing an outstanding job of reporting suspicious activity, SAR's are not a substitute for the objective transaction reporting provided by CTR's.

Any decision to change the working of the seasoned customer exemption we would recommend should be taken with great care. This is particularly so because of the steadily increasing ability of the Bureau to use this data to meaningfully track national security threats and criminal activity. Though information on the evolution of this capability is not appropriate for public discussion at this time, we would be happy to provide nonpublic briefings on it and have already done so to some of your staffs.

The Bureau and the Administration are committed to working with this Committee and the Congress to ascertain whether certain categories of CTR's could be eliminated without harm to our inves-

tigative and/or intelligence collection capabilities and if so to find effective methods to stop the filing of those and only those CTR's that would not be of use to us, but we should not eliminate the filing of any category of CTR's absent a study of the utility of the category that is under consideration.

In conclusion, BSA data has proven invaluable. It has proven its worth not only in traditional criminal investigations but also in our counterterrorism efforts. Our experience shows that counterterrorism activities are relatively inexpensive to carry out and the majority of CTR's of value to law enforcement and intelligence communities are typically those that are prepared at or near the current reporting requirements, as I previously gave some examples.

To dramatically alter CTR reporting requirements without carefully and independently studying this matter we believe could be devastating and a significant setback to our investigative and intelligence efforts relative to both the global war on terrorism and traditional criminal activities.

Thank you, gentlemen.

Chairman SHELBY. Yes, sir, go ahead.

**STATEMENT OF KEVIN DELLI-COLLI  
DEPUTY ASSISTANT DIRECTOR,  
FINANCIAL AND TRADE INVESTIGATIONS DIVISION,  
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT,  
U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. DELLI-COLLI. Good afternoon, Chairman Shelby, Ranking Member Sarbanes. My name is Kevin Delli-Colli, and I am the Deputy Assistant Director for Financial and Trade Investigations at U.S. Immigration and Customs Enforcement, ICE. I appreciate the opportunity to share with you how ICE is applying its financial investigative authorities to attacking criminal enterprises that violate our Nation's borders and homeland security.

ICE is the largest investigative component within DHS. Working overseas, along our Nation's borders, and throughout the Nation's interior, ICE agents are demonstrating that our unified customs and immigration authorities constitute a powerful tool for combating international money laundering and transnational crimes. During fiscal year 2005, ICE investigations led to the seizure of nearly \$1 billion in currency and assets and the arrest of over 23,000 individuals.

The 2005 U.S. Money Laundering Threat Assessment represented a remarkable interagency effort to identify vulnerabilities and methods employed by criminal organizations to move and store their illegal funds.

ICE was pleased to participate in the interagency working group and provide information and insights relevant to the threat assessment, especially in the area of bulk cash smuggling, illegal money service businesses, and trade-based money laundering.

A number of the money laundering trends we have developed in response to the Bank Secrecy Act and the robust anti-money laundering programs instituted by the U.S. financial industry. As a result, criminal organizations are increasingly forced to resort to bulk cash smuggling, trade-based money laundering, and other schemes to move their illegal proceeds.

As the opportunity to exploit U.S. financial institutions diminishes, the smuggling of currency out of the United States has become a preferred method of moving proceeds across our borders. ICE special agents have used the bulk cash smuggling statute with great effect, having arrested 330 individuals since its passage in October 2001. In addition, ICE and our sister agency, Customs and Border Protection, CBP, have worked together to seize over \$160 million involved in these violations.

However, ICE's enforcement of bulk cash smuggling does not end at the border. In August 2005, ICE partnered with CBP and the State Department to initiate a joint training program known as Operation Firewall with our Mexican counterparts. As a result, Mexican authorities seized over \$30 million in cash and negotiable instruments, including the single largest bulk cash seizure in Mexico of \$7.8 million.

ICE and Mexican authorities continue to investigate these seizures to tie them to larger investigations in the United States, Mexico, and Latin America. The State Department continues to fund these international efforts, and we are grateful for their support.

In addition to our efforts to combat bulk cash smuggling, ICE works aggressively to address other financial methods used to move illicit funds out of the United States, such as the use of unlicensed money service businesses or MSB's. While many MSB's provide a legitimate service to their customers, those acting illegally evade Federal reporting and recordkeeping.

Since the passage of the USA PATRIOT Act, ICE investigations of unlicensed MSB's have resulted in over 170 arrests. Because of ICE's expertise in customs matters, our special agents are highly effective at combating trade fraud and trade-based money laundering. Trade can be used to transfer proceeds in a variety of ways, such as overvaluing the cost of imported goods to disguise illegal proceeds as legitimate payment for those goods, converting proceeds into merchandise, which is then shipped abroad and sold for local currency. Even hawalas use trade transactions as a way to balance their accounts.

To detect and combat trade based money laundering, ICE has established a trade transparency unit or TTU. The ICE TTU analyzes trade and Bank Secrecy Act data to identify anomalies relating to cross-border trade that is indicative of money laundering or trade fraud. The ICE TTU initiates and supports investigations related to trade-based money laundering.

In addition to analyzing U.S. trade data, ICE has begun exchanging trade data with foreign counterparts. ICE and participating governments are for the first time able to see both sides of trade transactions for commodities entering and leaving their countries. This truly makes trade transparent and greatly assists in the detection of money laundering and customs frauds.

Currently, ICE has TTU agreements with Colombia, Paraguay, Brazil, and Argentina. Both the Department of the Treasury and the Department of State have provided valuable support to this initiative. ICE will continue to aggressively apply our authorities to combating international money laundering and the methods and means used to move illegal proceeds across our borders.

This concludes my remarks, and I thank this Committee and its distinguished Members for their continued support of ICE's investigative endeavors. I would be pleased to answer your questions.

Chairman SHELBY. Mr. Morehart.

Mr. MOREHART. Yes, sir.

Chairman SHELBY. Can changes to categories of CTR's and certain exemptions be implemented without having an adverse effect on the investigative abilities of the FBI? And if so, what are they? Do you have any idea there? Measured changes, not wholesale, radical changes, perhaps?

Mr. MOREHART. We are a proponent of certainly reviewing the legislation, Senator. We recognize that it is a burden on financial institutions to file those documents. That is something we have thought about quite a bit, and we have worked with our inter-agency partners including Treasury, FinCEN—the Financial Crimes Enforcement Network—as well as DHS, ICE, and others to try to assess that. I think it requires more study.

We do feel that there are those CTR filing requirements that could be done away with that are not of value to us; for example, CTR filing requirements such as the Wal-Marts of the world and the Giant Foods and the Best Buys and those large, well-established commercial enterprises that, quite candidly, are of little or no value to law enforcement, we have no objection whatsoever to developing protocols that would alleviate that type of filing requirement, and I am sure there are others that I am not familiar with.

Nevertheless, I would suggest that, yes, sir, there are areas that we could alleviate some of those burdens. My only suggestion, sir, in all humility would be that I think it needs a thorough scrubbing, if you will, sound study to make sure that we do not, if I may characterize it, as remove some of those dots of which we speak connecting the dots, which is our primary goal, without some forethought, because it may allow us the inability then later on to connect dots.

Chairman SHELBY. It could cripple you, could it not?

Mr. MOREHART. It could, sir.

Chairman SHELBY. Briefly, how significant is the investigative significance of BSA data, with particular attention to the significance of the CTR data?

Mr. MOREHART. I think it is of immeasurable value.

Chairman SHELBY. Immeasurable.

Mr. MOREHART. Yes, sir.

Chairman SHELBY. Very important to the FBI in your law enforcement.

Mr. MOREHART. Absolutely, yes, sir.

Chairman SHELBY. Organized crime, terrorist financing, money laundering, all of it, right?

Mr. MOREHART. Yes, sir, and I think that, because of the informational tools that we have available as to now, the computer programs and so forth that we have been able to develop over the last couple of years, its import is just starting to become known. We have a long way to go, Senator, certainly to develop those things further, but the value is increasing every single day.

From 2 years ago to today, just an immeasurable improvement and awareness on our part of the value of that data.

Chairman SHELBY. Of course, you have heard this said that the BSA data has been characterized as clogging up the works with useless information; that there is just too much information to be adequately analyzed even. Would you tell the Committee a little something, if you could, about the data mining capability of the FBI and explain how the FBI has expanded its utilization of this data.

Mr. MOREHART. Yes, sir.

Chairman SHELBY. Without getting into particulars.

Mr. MOREHART. Yes, sir, I would be happy to.

About 2 years ago, we developed a program, a tool, if you will, a database called Investigative Data Warehouse. The Investigative Data Warehouse, during my last testimony in May to the House, I basically characterized it as Google on steroids, and I think that still stands today.

Essentially, what it brings together is not only BSA data, and we work very closely with FinCEN, as I mentioned, and they provide us, actually, all the data to put into that computer mainframe along with databases from a variety of other agencies, including the FBI.

And the way that database simply works is this, one of the benefits is rather than have to go to multiple databases now and conduct individual searches, we can search all databases with one search, and it has saved us literally thousands if not hundreds of thousands of hours doing that. In addition, that database has allowed us to query that data, and what would have taken individuals months or years to do, we can now do in minutes. We can take one name and query it through the database and pull all BSA data, for example, out on that one name. The value of that is immeasurable.

Chairman SHELBY. I am in another Committee, in the Appropriations Committee, I chair the Committee over the Justice Department, the FBI; tomorrow, we will have a hearing with the Director over the modernization of the technology in the program.

Mr. MOREHART. Yes, sir.

Chairman SHELBY. Would that help you even more to mine this data?

Mr. MOREHART. Well, I am not a computer expert by any stretch, Senator, and I do not know the cost of those things. I assume they are significant.

Chairman SHELBY. They are very expensive—

Mr. MOREHART. Yes, sir.

Chairman SHELBY. But they are necessary, I think.

Mr. MOREHART. Yes, sir, and I would honestly have to defer that to the people in the FBI that know more about the cost of those things and what is needed.

Chairman SHELBY. Mr. Morehart, could you describe for the Committee, the history of Operations Royal Charm and Smoking Dragon, if you could? These operations, as I understand it, targeted Chinese organized crime syndicates involving millions of dollars in counterfeit U.S. currency as well as counterfeit cigarettes and revenue derived from narcotics trafficking?

Mr. MOREHART. Well, I am not intimately familiar with either of those, sir, and I would have to—



Chairman SHELBY. Could you do it for the record? Could you get this for the record?

Mr. MOREHART. I could, sir, yes, sir.

Chairman SHELBY. Including an assessment of the nexus between the activities targeted in these two law enforcement operations and the North Korean activities discussed with the previous panel; I think you were here.

Mr. MOREHART. Yes, sir.

Chairman SHELBY. And are Chinese triads involved in efforts that threaten the integrity of the United States financial system, are they connected in any way to terrorist organizations? We would like to have that for the record.

Mr. MOREHART. We would be happy to get that for you, sir.

Chairman SHELBY. Do that.

Triborder region; we got into that on the other panel. Could you share some—you might not want to share everything and should not—the scale of the terrorist fundraising activities in the triborder region of South America? How important is this? How big is this? I have been to that area.

Mr. MOREHART. Yes, sir.

Chairman SHELBY. I understand it is wide open. A lot of money is being raised for legitimate reasons.

Mr. MOREHART. Right.

Chairman SHELBY. Legitimate Muslim charities, but there is no real analysis of a lot of that.

Mr. MOREHART. Yes, sir.

Chairman SHELBY. Is that a concern?

Mr. MOREHART. Certainly, it is a concern. I, too, am familiar with the triborder area. I have worked closely with Treasury, with Under Secretary Levey and his staff on that particular issue; obviously, Brazil, Paraguay, Argentina, and Chile, for that matter, are of a concern.

Chairman SHELBY. Should you put more resources there?

Mr. MOREHART. Well, that is a difficult question to answer, sir. I think that assessment is needed first. I do not believe in sending resources out, obviously, without a targeted mission—and not suggesting that we do not have a strategy in place, but I will say this, Senator: I am very limited on what I can say on that particular topic from an investigative standpoint.

Chairman SHELBY. But it has to be on your menu, has it not?

Mr. MOREHART. It is, sir.

Chairman SHELBY. Estimates show that the prepaid card market will reach about \$347 billion by next year. By the end of this decade, the global market could top \$2 trillion.

Mr. MOREHART. Yes, sir.

Chairman SHELBY. That is a lot of money. Here is a scenario, for example, involving two of the emerging threat types that were identified in the threat assessment: You steal someone's credit cards, buy something, goods online, and resell the stolen goods online in exchange for what they call e-gold, a digital currency; then, use that currency to buy prepaid credit cards, also online, which will allow you to spend the proceeds anonymously anywhere in the world, as I understand it.

This transaction allegedly moves some \$25 million of illicit funds for the Eastern European clients of an unlicensed money services business. These are prepaid cards. Some of them are described as cash on steroids. What kind of priority has law enforcement set for this type of money laundering activity? This is very resourceful thinking on the part of criminal and terrorist activity.

Mr. MOREHART. Yes, sir. I would have to agree that it is of great concern to law enforcement. I am sure that Mr. Delli-Colli would agree. It is not something we take lightly. As a matter of course, anti-money laundering protocols usually established by banks prohibit that type of activity; in other words, it is along the lines of knowing your customer. When you apply for, let us say, a stored value card of any type, a preloaded credit card, typically, you are going to know who your customer is.

Chairman SHELBY. This has been going on more and more, has it not? It is a growth area; is that right?

Mr. DELLI-COLLI. That is correct; as a matter of fact, that scenario that you described, actually, we had a case that was very similar to that in our San Diego office, where Secret Service and ICE working together identified an identity theft ring that was stealing credit card identities.

They then used those credit cards to purchase stored value cards from Best Buy, the Targets, and things of that nature. They then used those stored value cards to purchase mobile telephone, Boost mobile telephone cards; smuggled them into Mexico; sold them for profit in Mexico. So you are already seeing that kind of activity occurring with stored value cards.

Chairman SHELBY. It is hard to trace, though.

Mr. DELLI-COLLI. It is.

Chairman SHELBY. It is not impossible, as you know.

Mr. DELLI-COLLI. It is not impossible. However, as these systems, I think, progress and advance and get more commonly used, I mean, in effect, they are cash, and I think our current reporting requirements at the border, if you will, do not necessarily take that into account. What if you take out more than \$10,000 in aggregate in stored value cards and move them internationally? And I do not think our laws have actually taken that into consideration yet, because obviously, they were written before this technology existed.

Chairman SHELBY. Go ahead.

Mr. MOREHART. If I may add, Senator, I will say this: We work closely with many members of the financial services industry. They are aware of those issues, and we work closely together to solve some of those problems. And while I cannot get into details, I can tell you in one instance where we had a stored value card that we were pretty sure was being used by terrorist elements that we were able to dismantle.

Chairman SHELBY. That is good.

Mr. MOREHART. Yes, sir.

Chairman SHELBY. Good work.

My last question: The threat assessment has identified about a dozen traditional and emerging threats. From a law enforcement perspective, Mr. Morehart, could you provide us with a ranking of the top five most serious threats to our financial system today, in your opinion?

Mr. MOREHART. That is a very tough question, sir, and I would have to ask your forbearance in having an opportunity to—

Chairman SHELBY. Would you do this for the record?

Mr. MOREHART. I would, sir.

Chairman SHELBY. That would be fine.

Mr. MOREHART. I would have to think about it a bit.

Chairman SHELBY. Senator Sarbanes, thank you for your indulgence.

Senator SARBANES. Certainly, Mr. Chairman.

First of all, I want to say I think this has been an extremely helpful panel. I want to commend both of you for your very forthright statements.

Mr. MOREHART. Thank you, sir.

Senator SARBANES. I would like to ask first, what clearance process did you go through in order to present this statement to the Committee today?

Mr. MOREHART. I am sorry—the clearance process, sir?

Senator SARBANES. Yes.

Mr. MOREHART. You mean vetting?

Senator SARBANES. Yes.

Mr. MOREHART. Virtually every agency—I think Kevin will agree with me—every other agency we deal with had an opportunity to look at it. DOJ looked at it. Our Office of Congressional Affairs from the FBI looked at it and obviously made suggestions and agreed or disagreed, if you will, with the comments therein.

Senator SARBANES. All right.

Mr. Delli-Colli.

Mr. DELLI-COLLI. It was the same. We draft the statement within the programmatic area, which is my area. It gets reviewed and approved within the Office of Investigations. It then goes to the Department, and it gets submitted to OMB for interagency approval. As a matter of fact, I reviewed both Secretary Levey and Secretary Wayne's statements as well as Mr. Morehart's prior to it being cleared, and I am sure they read mine.

So it goes through this process to make sure that everybody looks at it and understands what the other agency is going to testify to.

Senator SARBANES. Would Director Mueller have reviewed your statement?

Mr. MOREHART. I do not think so, sir, but I cannot answer that question. I would not know.

Senator SARBANES. Mr. Delli-Colli, would Secretary Chertoff have reviewed your statement?

Mr. DELLI-COLLI. I know it was reviewed by the Department. I do not know who at the Department actually reviewed it. I do know that Assistant Secretary Julie Mars reviewed it.

Senator SARBANES. The first suggestion I have to make to you is I think you should go back and bring the statements to the attention of the Director and of the Secretary with this message that there is a lot of move of foot to portray these suspicious activity reports and currency transaction reports as overloading the system. It is too much and so forth and so on. And that is a refrain that is generally heard, because that is a very open refrain, and, you know, lots of people across the country can raise that concern.

Now, your difficulty is much of what you would say about the effectiveness of these is you cannot reveal it in a public session, particularly the specifics, so you have to do generalized things like these percentages and so forth and so on. But nevertheless, what comes through to me, at least from your statements, is the very high utility of these reports.

In fact, Mr. Delli-Colli, you, I think to save time, at the end compressed and went over quickly this section about ICE use of Bank Secrecy Act data at the end of your statement.

Mr. DELLI-COLLI. Yes.

Senator SARBANES. But it is really quite a very strong statement, I thought, and for instance, "The so-called 'placement' of funds into the financial system is the most vulnerable stage of the money laundering process for criminal organizations. Generally, individuals and businesses conducting legitimate transactions have no reason to structure deposits or withdrawals to avoid the current \$10,000 threshold for filing of a CTR. The CTR requirement leads criminals to deliberately structure deposits in the banking system in order to avoid the reporting requirements in the hopes of avoiding suspicion and detection." And then, you go on, they have to make multiple financial transactions, and it gives indicators to law enforcement to detect illegal activity, which, of course, addresses this argument we hear, well, they will just put it into smaller pieces, and they will go ahead and do the job as though the reporting serves no purpose.

But as you point out, even at below \$10,000, it creates a pattern which you can pick up which I take it is highly relevant to your activities; is that correct?

Mr. DELLI-COLLI. Extremely relevant, sir. A lot of the argument concerning the CTR's is that law enforcement is not doing anything with the CTR's. And as Mr. Morehart pointed out, you know, the actual analysis of the CTR data is important.

But I think sometimes what gets overlooked in the whole argument is that the mere fact that we have this reporting requirement is one of the most important things that we have to do with respect to our anti-money laundering regime. It actually puts in a defensive barrier, and the Bank Secrecy Act, for all intents and purposes puts law enforcement in partnership with the financial industry to combat money laundering, terrorist financing, and other financial crimes.

And that mandatory reporting threshold is the single biggest barrier that criminals have to get around. And by them having to take, you know, do anything they can to avoid that filing, their actions can be detected.

The other thing that we get asked a lot is that, well, the 314(a) process, where you can come back and request financial institutions to look to see if they have any account activity on John Smith, for instance, usurps the value of the CTR, because we have the 314(a) process.

I would argue that that could not be further from the truth. The 314(a) process is used sparingly, only in the most significant money laundering cases with respect to ICE as well as the FBI with, you know, terrorism investigations. I believe ICE has taken advantage

of the 314(a) process more than any other Federal agency. We have used it 214 times for a total of maybe 1,200 subjects.

Compare that to how many times we used the CTR database: In 2005 alone, ICE special agents queried the CTR database 450,000 times. You would not want that process transferred to the 314(a) process. The CTR data is extremely important. Each one of these Bank Secrecy Act databases is not a separate stovepipe. They all work hand-in-hand, whether it is the CMIR process, the SAR, or CTR.

Oftentimes, it is the CTR that puts the emphasis on the suspicious activity report. It actually provides the wow factor. In a case in point, we had a SAR that was filed at a casino by someone wiring money in and then cashing it out for chips playing poker for a little bit and then coming back and converting the money back to cash.

And it seemed suspicious, but what really got the investigators into the investigation was when they started looking at the CTR's associated with that person and found that that casino as well as other casinos had filed more than \$10 million in CTR's. That was the wow factor that said hey, we need to investigate this.

We look at CMIR's, at people reporting money coming into the country. The U.S. banks are still where people want their money to be placed, and the money gets smuggled out. We are seeing people bringing money back in, reporting the money, and we can match those reports up with transactional data at banks showing that if you brought \$10,000 in on Monday and deposit it into a financial institution on Tuesday, and it leads us to the bank accounts where this activity might be occurring.

Mr. MOREHART. Senator, may I add one thing?

Senator SARBANES. Sure.

Mr. MOREHART. On the 314(a) process, I agree with everything that my colleague just said regarding CTR's and 314(a). I would just like to add one thing, that assuming that the 314(a) process is going to replace or overcome any filings that are not made if the CTR reporting requirements are changed presupposes that law enforcement or the intelligence community knows about the target or the individual that would have been mentioned on that CTR.

So that is to say that we may not know that there is a John Smith out there if there is not a CTR filed. There may not be any reason to submit a 314(a), and that is why I spoke earlier of taking away the dots. That would be a dot that was taken away where we may not then know of a bad guy, either traditional criminal activity related or I would argue perhaps even more importantly from a terrorism standpoint.

Senator SARBANES. Well, of course, there are some exemption provisions currently in the law which are designed to deal with very legitimate actors who say, well, we are always confronted with this problem. And I am not quite clear why that exemptive authority has not been pursued as opposed to the effort to, in effect, weaken or alter the basic framework. Do you have any observations on that point?

Mr. MOREHART. Senator, I do not know why the DEP process is not used more than it is. That is a dilemma that we have been actually talking about trying to figure out how—we did some analysis

using our information technology tools and BSA data, for that matter, on that particular topic. And since, over the period 1999 to 2004, DEP filings by financial institutions have roughly remained the same. With the exception of 2000 that showed a spike up to about I think it is 160,000, they remained pretty much between 40,000 and 60,000 every year.

So it really has not changed much, and even though you would expect as our economy grows that the number of transactions would increase, the DEP filings have not. Now, I do not know whether that is some filing difficulty in terms of the different phases you have to go through or whether the vetting process is difficult, but I certainly would think that collectively, those are things that we could all look at to try to make it a bit easier. No expert on DEP filings am I, I guess, is what I am trying to say from a regulatory standpoint, but I have looked at the Form 110, the FinCEN 110 that you fill out of the bank would fill out to file a DEP exemption, and it is not that difficult to fill out.

I do not know where the regulatory issue would come in after that, but I would think that it would be something worthwhile looking at, perhaps, if I might suggest that; perhaps it could be made a little bit simpler, and they might use it more often. But again, I am not versed from the regulatory standpoint all that would be required on that form. It is just a thought.

Mr. DELLI-COLLI. My concern would be with respect to the exemptions or, you know, increasing how they are used or changing the way that exemptions are administered is that I do not think we want to get to a point where the exemption is the norm, and the CTR filing is the exception. It is, again, because the fact that the placement is the most difficult part of the money laundering equation, we need to keep that barrier there and have that barrier be as large a fence as possible to have to overcome.

Also, the definition of the examples I keep hearing that we do not have a problem with is the Wal-Marts, the Best Buys, the big, large publicly traded firms; but also, in the legislation that is proposed, they are talking about sole proprietors, which can take into a lot of types of businesses that are of concern to law enforcement: Electronics business, appliance businesses, things that individuals and companies that are selling products that are the types of products that are used in the Black Market Peso Exchange, for instance. So you do not want to lose that whole sector of the CTR's.

The other thing is that even if there is an exemption, the investigative interest does not go away, and I would argue that what could happen, if we have too many exemptions, and we are aware that okay, I know that company A has an exemption, and that must have been because they have had at least one currency transaction of more than \$10,000 in the past year, I wonder if they have 1,000 transactions or only two, and chances are you are going to see an increase in grand jury subpoenas going back to the banks and then asking for all the transaction data associated with that bank account, and that might create a greater burden on the banks to have to comply with the grand jury subpoena process, not to mention putting a burden on the grand jury process itself.

Mr. MOREHART. If I may add, Senators, in terms of the business eligibility for exemption, if you will, for lack of a better way to de-

scribe it, 701 out of H.R. 3505 basically says every business entity, as my colleague suggests, is eligible for exemption. I would caution that that should be closely looked at, because as we know, in law enforcement, there are certain types of businesses out there that are traditionally used by criminals for criminal—either moving money, money laundering, or to be complicit in some type of criminal activity. And some of those would be exempt from filings, which is of great concern to us.

Senator SARBANES. Thank you very much for your testimony. I mean, we are paying some significant cost to try to address this financing issue, but I think you have laid out a very strong argument today of the utility of it, and I think it is important to hear that. I mean, I go to the airport; I have to empty everything out of my pocket; I take off my belt then, I take off my shoes. Then, I go through. Hopefully, there is not something that makes the buzzer ring, and then, I have to get dressed again in order to go on my way, and that is a price I pay to try to heighten our security.

People complain about it, but the rationale is there. You are getting complaints, but you have laid out a strong rationale here for the utility of this reporting system. So thank you.

Thank you, Mr. Chairman.

Chairman SHELBY. I just want to add a few remarks to what Senator Sarbanes said. I think this has been a good panel today, both of them. We appreciate what you do.

Mr. MOREHART. Thank you, sir.

Chairman SHELBY. Most people never say thank you for that. It is a tough job. But we have to balance this, but we know there is a cost for freedom; there is a cost for security. Thank you very much.

The hearing is adjourned.

Mr. MOREHART. Thank you.

Mr. DELLI-COLLI. Thank you.

[Whereupon, at 12:42 p.m., the hearing was adjourned.]

[Prepared statements and response to written questions supplied for the record follow:]

**PREPARED STATEMENT OF STUART LEVEY**  
 UNDER SECRETARY, OFFICE OF TERRORISM AND FINANCIAL INTELLIGENCE  
 U.S. DEPARTMENT OF THE TREASURY

APRIL 4, 2006

Chairman Shelby, Ranking Member Sarbanes, and other distinguished Members of the Committee, thank you for the opportunity to speak to you today about our progress in combating terrorist financing and money laundering. In the last 4 months, we have seen assessments of our progress in both of these arenas—the September 11 Commission Public Discourse Project’s evaluation of our terrorist financing efforts and the U.S. Government’s first-ever Money Laundering Threat Assessment. These assessments and this hearing provide an opportunity to take stock of how we are doing with respect to two of the leading concerns of my office. I welcome this Committee’s ongoing focus on these threats, and your continued support for our efforts to help stop illicit flows of money.

**Terrorist Financing**

The September 11 Commission’s Public Discourse Project awarded its highest grade, an A-, to the U.S. Government’s efforts to combat terrorist financing. This praise truly belongs to the dozens of intelligence analysts, sanctions officers, regional specialists, and regulatory experts in the Treasury’s Office of Terrorism and Financial Intelligence (TFI) who focus on terrorist financing, along with their talented colleagues in other agencies—law enforcement agents who investigate terrorism cases, Justice Department prosecutors who bring terrorist financiers to justice, foreign service officers in embassies around the world who seek cooperation from other governments and many others from the intelligence community. You will not find a more talented and dedicated group of people, with no trace of ego and a total focus on the mission.

The September 11 Commission Public Discourse Project did not provide a detailed explanation of the reasoning behind its conclusions but I am certain that one contributor to the high mark was the close interagency teamwork that has been a hallmark of our Government’s efforts in this arena. Along with my colleagues here today—the State Department, FBI, and DHS—as well as the intelligence community and Deputy National Security Adviser Juan Zarate, we have forged a team with complementary strengths and outlooks but a single mission and great mutual respect. That teamwork translates into effectiveness. We have continued to improve our ability to track key targets and to take the most appropriate action against the terrorist target. Sometimes that means that the Treasury will take public action, sometimes it involves persuading another country to take action, and sometimes we decide to continue to collect intelligence to better map out the terrorist network. From the formation of TFI, we have been committed to that philosophy, resisting the application of metrics to our activities that would distort our incentives, for example, by emphasizing the number of terrorism designations.

In my view, reducing the USG’s wide-ranging efforts against terrorist financing to a single letter is necessarily going to tell only part of the story. So much is being done to combat terrorist financing, including intelligence collection, enforcement actions, capacity building, and systemic improvements to safeguard the U.S. and global financial systems. Our theater of engagement literally spans the world, from the money changing tables of Kabul to the jungles of South America’s Tri-Border Area, from the finance ministries of the world to the compliance offices of the world’s most sophisticated banks. In some of these areas we have attained far greater success than in others, perhaps because of deeper intelligence penetration, the availability of more effective tools, or closer partnership with certain host governments. No single grade will be able to convey this nuance.

The indicators that we find meaningful are typically complex and not readily quantifiable, such as anecdotal reporting about terrorist cells having difficulty raising money or paying salaries or benefits. In recent months, we have seen at least one instance of what we look for most—a terrorist organization indicating that it cannot pursue sophisticated attacks because it lacks adequate funding.

Usually, though, the information we receive is not as clear. As an example, one interesting trend that we have witnessed is a decrease in the average amount of transactions that we learn about. Obviously, we are only privy to a subset of the total transactions, but this observation carries across various financial conduits and terrorist organizations and we have no reason to believe that it is unrepresentative. Interpreting this indicator is more difficult. It could reflect an overall decrease in the amount of money moving to and from terrorists. Just as easily, it could indicate that terrorists are breaking their transactions out into smaller sums, fearing inter-



ception. Alternatively, the trend could be an outgrowth of a movement by terrorist organizations away from banks toward less formal mechanisms, like cash couriers. These couriers may offer concealment, but some get caught and some get greedy, and so it is very risky to entrust them with large sums of money. Any of these alternatives would indicate that our efforts are having an impact and this trend may bear out our assessment that terrorists who fear using the banking system do not have a ready and reliable alternative for moving large sums of money. We will continue to monitor developments, but I hope this provides a sense of how complex a task it is to assess the overall impact of our efforts to combat terrorist financing.

In specific areas, we can point to more concrete indicators of success. We have made dramatic progress in combating terrorist abuse of charities. Prior to September 11 and even afterwards, terrorists used charities as safe and easy ways to raise and move large sums of money. Al Qaeda and Hamas, in particular, relied on charities to funnel money from wealthier areas to conflict zones with great success. Through a combination of law enforcement and regulatory actions against several corrupt charities, both at home and abroad, we have taken out key organizations and deterred or disrupted others. In tandem, active engagement with the legitimate charitable sector has succeeded in raising transparency and accountability across the board.

We have thus far designated more than 40 charities worldwide as supporters of terrorism, including several U.S. charities such as the Holy Land Foundation, the Global Relief Foundation, the Benevolence International Foundation, the Al Haramain Islamic Foundation, and the Islamic African/American Relief Agency (IARA). The impact of these actions is serious, and sometimes decisive. IARA once provided hundreds of thousands of dollars to Osama bin Laden. More recently, IARA country offices have experienced increased pressure and its leaders have expressed concern about the organization's future.

Our most recent action targeted KindHearts, a purported charity in Ohio that was supporting Hamas. In that instance, we took coordinated action with DOJ prosecutors and the FBI, which executed a search warrant at the moment that we froze the group's assets. Although we generally do not disclose specific blocked asset information, KindHearts has stated that over one million dollars of its assets were blocked. Overall, engagement with the charitable sector combined with enforcement actions against bad organizations have radically altered the dynamic, leaving dirty charities isolated and imperiled.

A second conduit where we have seen a shift is donations from private individuals, another primary source of terrorist funds. Unlike charities, individual donors to terrorist organizations do not need to maintain a public profile and are considerably harder to track. Our advantage in pursuing donors, however, is the heightened power of deterrence. A person who is willing to commit a suicide bombing cannot be deterred by fear of punishment. Even those wealthy donors who sympathize with an extremist cause, however, may well be unwilling to support it at risk of losing their reputation, their assets, and potentially their freedom. As financial investigators track donations back to their sources and wealthy individuals are held to account, we have begun to change the risk calculus of donors and narrowed the set of individuals who are willing to take that chance.

Accountability and deterrence have been an area of particular focus for me. I believe we need to heighten our deterrence of donors by treating terrorist financiers as the terrorists that they are. Those who reach for their wallets to fund terrorism must be pursued and punished in the same way as those who reach for a bomb or a gun. In that regard, I was heartened by a recent statement from Saudi Arabian Foreign Minister Prince Saud al-Faisal, who said that "[t]he extremists who condone, support, incite, or legitimize terrorism should be held accountable for the criminal consequences of their message of hatred and intolerance." If Saudi Arabia and others in the region see this commitment through, it will send a powerful message of deterrence to would-be terrorist financiers.

Another important measure of our progress is an increase in the number of countries approaching the U.N. Security Council to seek the designation of terrorist supporters. This global designation program, overseen by the U.N.'s 1267 Committee, might be the most powerful tool for global action against supporters of Al Qaeda. It envisages 191 UN member states acting as one to isolate Al Qaeda's supporters, both physically and financially. Increasingly, countries have begun to look to this committee, and administrative measures in general, as an effective complement to law enforcement action. In 2005, 18 member states submitted names for the committee's consideration, many for the first time, and we will continue to support this process and encourage others to do so as well.

In other arenas of this fight, however, we are not where we need to be. State sponsors of terrorism, like Iran and Syria, present a vexing problem, providing not

only money and safe haven to terrorists, but also a financial infrastructure through which terrorists can move, store, and launder their funds. While this is a daunting challenge, I believe that the Treasury Department's tools, combined with cooperation from responsible financial institutions, can make a difference. In the past year, for example, we have designated top Syrian officials, including the then-interior minister Ghazi Kanaan and the head of Syrian Military Intelligence, Assaf Shawkat, in part for their support to terrorist organizations. Also, on March 9, we issued a final rule under Section 311 of the USA PATRIOT Act confirming that the Commercial Bank of Syria (CBS) is a "primary money laundering concern" and forbidding U.S. financial institutions from holding correspondent accounts for CBS. Among our reasons for that action was the risk of terrorist financing posed by a significant bank owned and controlled by an active and defiant state sponsor of terror like Syria.

We have ample reason to believe that responsible financial institutions around the world pay close attention to such actions and other similar indicators and adjust their business activities accordingly, even if they are not required to do so. A recent example of interest was the announcement by the international bank UBS that it intended to cut off all business with Iran and Syria. Other financial institutions are similarly reviewing their business arrangements and taking special precautions to ensure that they do not permit terrorist financiers or WMD proliferators access to the global financial system. As discussed below with respect to North Korea, this voluntary action by responsible firms in the private sector can have tremendous impact.

Another difficult problem we face is that couriers continue to move terrorist money across the world's borders with insufficient scrutiny. New international standards for impeding cash smuggling, issued by the Financial Action Task Force in 2004, are a very positive step, but we still have an enormous distance to go in ensuring that trained and capable border agents are implementing these rules. In these and other areas, there is a great deal still to be done.

So long as terrorists are able to fund their organizations, we will not be satisfied or complacent. Reading intelligence about terrorist attacks planned and frustrated every week, I understand how much hangs in the balance.

### **The Strength of Financial Measures**

Before turning to our domestic money laundering challenge, I wanted to briefly highlight for the Committee some of the lessons we have learned in the last year about the power of financial measures to effectively counteract national security threats, especially when they are implemented multilaterally by governments and private financial institutions. Just as terrorist organizations require money to survive, WMD proliferation networks do as well. By capitalizing on a growing international consensus that these activities have no place in the legitimate global financial system, we have been able to apply effective pressure to counteract these threats.

Executive Order 13382, issued by the President in June 2005, authorizes the Treasury and State Departments to target key nodes of WMD proliferation networks, including their suppliers and financiers, in the same way we target terrorist financiers. A designation under this Executive Order cuts the target off from access to the U.S. financial and commercial systems and puts the international community on notice about the threat the target poses.

Thus far, we have designated 11 North Korean entities, 6 Iranian entities, and 1 Syrian entity engaged in proliferation activity. Just last week, the Treasury designated two more proliferators, the Swiss company Kohas AG and its President, Jakob Steiger. Kohas AG acts as a technology broker in Europe for the North Korean military and has procured goods with weapons-related applications. Nearly half of the company's shares are owned by a subsidiary of Korea Ryonbong General Corporation, a previously designated North Korean entity that has been a focus of United States and allied counterproliferation efforts.

The impact of these actions depends on the extent of international cooperation. As in the terrorism context, the international community has called for cooperative efforts to isolate proliferators financially, as set forth in U.N. Security Council Resolution 1540 and the G-8 statement at Gleneagles. The Treasury and State Departments are engaging intensively with our international partners to see that these broad principles are turned into reality.

Confronted with North Korean conduct ranging from WMD proliferation-related activities to currency counterfeiting and other illicit behavior, the Treasury took two significant steps in the past year, one offensive and one defensive. Offensively, we targeted several North Korean proliferation firms under Executive Order 13382, as described above. Defensively, we took regulatory action to protect our financial sys-

tem against Banco Delta Asia (BDA), a Macanese bank that was handling a range of North Korean illicit activities without any pretense of due diligence or control. Indeed, BDA officials intentionally negotiated a lower standard of due diligence with regard to the financial activities of North Korean clients. We employed Section 311 of the USA PATRIOT Act to cut off this troubling institution's access to the U.S. financial system.

As a result of our actions and the revelations about North Korea's illicit activities, a number of responsible jurisdictions and institutions abroad have likewise taken steps to ensure that North Korean entities engaged in illicit conduct are not receiving financial services. The combined effect has been described as causing a "ripple effect around the world," constricting the flow of dirty cash into Kim Jong-Il's regime.

This example should be of particular note to this Committee as it demonstrates the impact of financial tools, some of which were created through the leadership and vision of this Committee.

### **Money Laundering**

While distinct from the threats posed by terrorist financing or proliferation of weapons of mass destruction, money laundering is a serious threat in its own right to our national and economic security. Money laundering enables crime and contributes to an erosion of confidence in our legal and financial systems.

The U.S. Money Laundering Threat Assessment represents an unprecedented step forward for the U.S. Government's efforts to combat money laundering in the United States. For years, dedicated regulators, policymakers, law enforcement agents, and prosecutors from across the Government have worked to safeguard our financial system against abuse, and to pursue and punish those who laundered illicit proceeds. Never before, however, had so many of the agencies that face these issues come together to share their findings and to sketch out a joint assessment of the depth and contours of America's money laundering threat.

The aim of the Threat Assessment was to provide policymakers, the law enforcement community, regulators, and supervisors with a picture of how money is being laundered in and through the United States. It was also intended to identify the priorities to be addressed in this year's National Money Laundering Strategy. Ultimately, we cannot successfully treat a problem until we have diagnosed it.

Sixteen Federal bureaus and offices from across the law enforcement, regulatory, and policy communities came together, with each office bringing its own perspective and experiences to the table. The interagency working group pulled together arrest and forfeiture statistics, case studies, regulatory filings, private and government reports, and field observations from those in the trenches.

The report analyzes more than a dozen money laundering methods, identifying how each method functions, any geographic or other concentrations of activity, the legal/regulatory backdrop, and vulnerabilities. The Threat Assessment does not tout our successes—it is a candid look at the serious challenges we face.

Key findings of the Money Laundering Threat Assessment include the following:

- Financial institutions remain key guardians of our country's financial system. Once illegal proceeds get into the formal financial system, they can be moved instantly by wire or disguised through commingling with legitimate funds. With the advent of internet and remote banking, financial institutions face increased challenges in ascertaining the identity of customers and the sources of funds.
- Criminals and money launderers have exploited corporate vehicles and trusts to disguise beneficial ownership and hide their activities. When state registries impose minimal information requirements and exercise lax oversight over the shell companies and trusts they register, it can be difficult or impossible for financial institutions to verify who is using a commercial account and for what purpose.
- Money Services Businesses (MSB's) make up a vast and varied alternative system to banks. Many MSB's operate without Federal regulatory supervision due to their failure to register with U.S. authorities. Some of these unregistered MSB's are informal money remittance services or check cashers that are operated as a side business by small retailers.
- Casinos are cash-intensive businesses that can be used to launder funds. Casinos have been subject to anti-money laundering regulations longer than any industry other than banking. But the money laundering threat posed by casinos has grown with the rapid increase in tribal gaming. Last month, the Financial Crimes Enforcement Network (FinCEN) announced its first enforcement action under the casino provisions of the Bank Secrecy Act (BSA) against an individual and an Indian tribe for a broad range of BSA violations.
- Certain sectors of the insurance industry have undergone a transformation. While traditional insurance policies remain an important part of the life insurance busi-

ness, agents and brokers now offer a range of financial products that can be readily purchased, transferred, and sold, and that are more akin to investment funds than traditional insurance policies. This evolution has created new opportunities for money laundering.

- Some of the largest and most complex methods of money laundering harness trade into and out of the United States. Trade-based money laundering takes many forms including the Black Market Peso Exchange, which poses a particular challenge to law enforcement because it separates the crime from the cash early in the money laundering process. Under this scheme, drug dealers are able to hand off their illicit dollars in the United States to professional money launderers, who make clean currency available in Colombia or elsewhere.
- Smuggling cash out of the United States for deposit elsewhere is a well-established money laundering method and appears to be on the rise because of the barriers criminals face attempting to launder cash domestically. Bulk cash smuggling is most often used to launder the proceeds from illegal drug sales. Cash associated with drugs typically flows out of the United States across the southwest border into Mexico, retracing the route that the drugs took entering the United States. Drugs and illicit proceeds also cross our northern and other borders.

It is only natural that, as we survey the various money laundering threats, we focus in on emerging technologies and new transaction methods. These developments certainly warrant our close attention. I would emphasize, though, that—in terms of dollar volume—some of the oldest methods of money laundering, particularly bulk cash smuggling, remain the most common.

The overall picture that emerged from the Threat Assessment is both sobering and promising. Large amounts of dirty money are circulating through the United States as criminals exploit money laundering methods old and new. At the same time, there has been considerable progress. The approach of U.S. law enforcement and regulatory agencies has undergone a sea change over the past decade, such that money laundering is now treated as an independent and primary priority across all relevant agencies. Perhaps most encouraging are interagency initiatives and task forces that, when properly coordinated, focus the talents, expertise, and resources of multiple agencies to bear problem to great effect.

While the interagency Money Laundering Threat Assessment is an excellent development, it is, of course, only the beginning of the process. We now need to build on the cooperation that went into the assessment to craft effective ways to counteract the vulnerabilities identified. That work is already ongoing. For example, to get the upper hand on the Black Market Peso Exchange and other trade-based money laundering schemes, Immigration and Customs Enforcement, with the support of the State and Treasury Departments, is working with U.S. trading partners and countries vulnerable to money laundering to create trade transparency units. These units allow countries to compare import and export logs to uncover anomalies that may indicate money laundering, and represent a serious advance in our worldwide anti-money laundering efforts.

We also continue to extend the Bank Secrecy Act, as amended by the USA PATRIOT Act, to financial sectors deemed to be the most vulnerable to money laundering and/or terrorist financing. We recently issued regulations requiring dealers in precious metals, stones and jewels, as well as certain segments of the insurance industry to establish anti-money laundering programs. A regulation also requires the insurance industry to file suspicious activity reports. We are presently working on regulations that would apply to other vulnerable financial industries.

As this Committee knows well, we have worked hard to respond to the threat posed by certain types of correspondent and private banking operations. We recently published regulations to implement Section 312 of the USA PATRIOT Act. The rule requires certain U.S. financial institutions to establish due diligence policies, procedures, and controls to detect and report money laundering through certain correspondent and private banking accounts. Having sought additional comment on the provision of Section 312 requiring “enhanced due diligence” for identified, high-risk foreign banks, a top priority is to complete this rulemaking by finalizing this last provision. We are currently examining options for responding to the other vulnerabilities identified in the assessment.

While the Money Laundering Threat Assessment focused, by design, on domestic money laundering, in today’s global economy, we cannot ignore the threat posed by money laundering abroad. To this end, the United States, with Treasury as its head of delegation, has taken a leadership role in the Financial Action Task Force (FATF) to establish and promulgate international standards for combating money laundering and terrorist financing. We and our colleagues devote continuous effort to shaping and ensuring implementation of these standards, through comprehensive

assessments as well as international training and assistance. Over 150 nations now subscribe to FATF's standards and have committed to meeting them.

The Treasury Department has also worked closely with the International Monetary Fund and the World Bank Group to promote member country programs against money laundering and terrorist financing. By the end of 2005, the IMF and World Bank had conducted more than 50 assessments of member countries' compliance with the FATF standards and had provided technical assistance on related projects in more than 125 countries. In addition, Treasury continues to encourage the regional multilateral development banks to conduct internal risk assessments similar to those undertaken by the World Bank in order to identify additional areas where antimoney laundering and counter-terrorist financing measures could be strengthened.

We are also working directly with the private sector in priority regions. Last month, members of my staff helped to organize an extraordinary conference in Cairo, where private sector bankers and public sector regulators from the United States met with their counterparts from Egypt, Saudi Arabia, Kuwait, and Lebanon to share concerns and approaches to combating money laundering and terrorist financing. Representatives from American Express, Citibank, J.P. Morgan Chase, and Pershing gave generously of their time, meeting with some 350 bankers from the Middle East and North Africa. This conference marked the beginning of what we hope will be an ongoing dialogue that will parallel and augment our work with public sector counterparts.

#### **Conclusion**

The threats of terrorist financing and money laundering remain serious and very real. I am encouraged, however, by our progress. Over the past few years, there has been increasing accord in the international community about the threats posed by these activities to national and economic security and their corrosive effect on the global financial system. There is also an increasing recognition of the power of financial measures to disrupt and isolate the sources of these threats. If responsible nations employ financial measures in a coordinated and consistent manner, we can make a decisive difference.

Thank you again for holding this hearing and for your sustained commitment to these issues. I would be happy to take your questions.

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#### **PREPARED STATEMENT OF E. ANTHONY WAYNE**

ASSISTANT SECRETARY FOR ECONOMIC AND BUSINESS AFFAIRS,  
U.S. DEPARTMENT OF STATE

APRIL 4, 2006

Thank you for the opportunity to discuss with you the contribution of the Department of State to U.S. Government efforts to combat money laundering and the financing of terrorism. As Assistant Secretary of State for Economic and Business Affairs, I have been actively involved in our campaign against terrorist financing. Your interest and attention to this important area is extremely valuable, and much appreciated.

This vital task is a high priority for the State Department. With the new challenges posed by the post-September 11 world, the Department of State has played a critical role, in Washington and overseas, in building and sustaining the international cooperation essential to keeping funds from use by terrorists and terrorist organizations. However, interagency cooperation is vital and essential to success in this endeavor.

In my remarks today, I would like to review in general terms what we have accomplished since September 11 in the international fight against terrorist financing. I would also like to sketch for you the role of the Department of State in this effort, and to update the Committee on recent regional developments as well as those in key multilateral institutions.

Finally, I would like to say a few words on what we see as some of the key challenges moving forward.

#### **What We have Accomplished Since September 11**

Mr. Chairman, all of us involved in the fight against terrorist financing can rightfully take pride that the September 11 Commission's Final Report accorded the U.S. Government's efforts against terrorist financing its highest marks. In the 4½ years since September 11, we have built a new set of structures and mechanisms within

the U.S. Government to combat terrorist financing. This is an interagency process that works.

That team effort by the U.S. Government has also served as the foundation for the international cooperation, called for in the Commission's initial Report, which the Administration has worked hard to develop in a variety of settings and with a variety of tools. Our efforts encompass building political will of partners, public outreach, sanctions implementation, law enforcement, intelligence-gathering, financial regulation, standard-setting, and training and technical assistance.

Since terrorists largely operate internationally, a key component of the fight is to build international cooperation. Diplomacy is critical to winning the political commitment from which cooperation in other areas flows, and our embassy teams play vital roles in this effort.

With cooperation, intelligence and law enforcement officers can follow the money. With international cooperation on asset freeze designations (as well as travel bans under U.N. resolutions), we force terrorists into less reliable and more costly means of moving money.

We have, for example, worked with foreign partners to:

- Implement the sanctions mandated by U.N. Security Council Resolutions 1267 and 1373 to expose and isolate terrorist organizations and their supporters.
- Utilize law-enforcement tools to prevent, investigate, and prosecute terrorist financiers.
- Collect and analyze financial intelligence in order to understand and dismantle terrorist networks, and expose their operations.
- Build capacity to develop and effectively enforce a robust legal regime against terrorists and their supporters.
- Support development of high-quality international standards, especially through the Financial Action Task Force on Money Laundering and Terrorist Financing (FATF).

As the Commission acknowledges, there is still much to do. But our shared goal remains the same: Building an international coalition to deny access to the global financial system to terrorists, terrorist organizations, their financiers and supporters.

Since September 11, I have traveled to the political and financial centers of Europe, capitals of key strategic partners such as Saudi Arabia, other Gulf states and Pakistan, as well as to the United Nations in New York, as part of our diplomatic effort to build this international coalition. Colleagues who are here with us today, and others from many U.S. agencies, have undertaken similar missions to those and other parts of the world.

We have also welcomed a steady stream of visitors to the United States who engage various levels at State and other U.S. Government agencies on terrorist financing issues. These include senior officials at the highest levels of government as well as mid-level officials and journalists sponsored by the United States on International Visitor Grants.

International cooperation remains fundamental to our common endeavors for the simple reason that most of the funds used to support terrorism are located outside the jurisdiction of the United States. International cooperation is essential to initiatives in fields ranging from intelligence and law enforcement coordination to targeted financial sanctions to norms and standards of financial regulation.

Our experience in the years since September 11 reinforces the conviction that we will be successful in detecting, disrupting, and dismantling terrorist financial networks only through active cooperation with partners around the globe.

### **The Changed Landscape**

One anecdotal measure of the success of this coalition can be seen in the increasing use by terrorist financiers of nontraditional financing channels in preference to the formal international financial system. This means terrorist networks are increasingly relying on riskier, more difficult, and expensive means to finance their operations.

But it is also further evidence that we face a resilient and adaptable foe, and signals a new phase in our campaign against terrorism finance. Already, abuse of such financing instruments as charities and not-for-profit organizations, cash couriers, wire transfers, and other alternative remittance systems have become an increasing focus of our discussions with international partners, as have criminal means of raising money.

### Role of the Department of State

The Department of State's contribution to Administration efforts to safeguard the international financial system from terrorist financing and money laundering focus on achieving three key objectives:

- *Designation.* Blocking assets and cutting off worldwide channels of terrorist financing;
- *Standard-setting.* Establishing international standards; and
- *Capacity and commitment.* Ensuring global compliance with international standards.

Our work is based on close cooperation with the National Security Council, Treasury, Justice, Homeland Security, and other agencies, and includes foreign policy guidance, diplomatic engagement, and training and technical assistance. In some cases, State will lead, in others Treasury, or DHS, or Justice may take the lead, for example, but we strive to approach them all as a coordinated team.

State officials lead or take part in a wide variety of regional and bilateral initiatives and multiagency diplomatic missions relating to money laundering and terrorist financing. They are also active participants in key multilateral institutions including FATF and the FATF-style regional bodies (FSRB's), the U.N. 1267 Sanctions Committee and the U.N. Counterterrorism Committee, the UN Office of Drug Control (UNODC), the G-8 Roma-Lyon Group and the Organization of American States.

Leadership of our efforts to combat money laundering and terrorist financing engages the resources of three State Department functional bureaus, in cooperation with a cross-section of other bureaus and U.S. diplomatic missions:

- The Bureau of International Narcotics and Law Enforcement Affairs (INL) has primary responsibility within State for international anticrime issues, including programs to combat money laundering and other financial crimes.
- The Office of the Coordinator for Counterterrorism (S/CT) plays a lead role in our domestic designation program, and shares responsibility with INL for coordinating U.S. AML/CFT capacity-building programs overseas.
- The Bureau of Economic and Business Affairs (EB) coordinates terrorist financing policy, and coalition building on terrorist financing, including on U.N. sanctions under Resolution 1267.

### Designation

Overall, the key role that the Department of State can play is to help build political will in other countries to staunch the financing of terrorism. As part of this broader effort we focus on two tasks to help identify and interdict terrorist assets:

- Public designation of terrorists and terrorist organizations; and
- Work with partners abroad to freeze the assets of terrorists and their supporters.

State shares responsibility, and works closely together with Treasury, for designations under U.S. Executive Order 13224. Designations under this order result in asset-blocking and a prohibition on transactions with the designated individual or entity. The Administration has frozen the assets of 436 individuals and entities on 76 separate occasions pursuant to this order.

State has responsibility, in consultation with Treasury and Justice, for designation of Foreign Terrorist Organizations (FTO's). These designations make it a crime to provide material support to the designated organization, subject its members, representatives, and material supporters to exclusion from the United States, and block FTO assets held in U.S. financial institutions. Forty-two organizations are currently designated as FTO's.

We also work with Justice and Homeland Security to designate groups for the Terrorism Exclusion List. Such an action makes individual aliens providing support to, or associated with, these organizations inadmissible to or, if appropriate, subject to deportation from the United States. Many of the groups on this list are banks, NGO's, and other organizations found to have provided support to terrorist organizations.

Internationally, State coordinates U.S. diplomatic engagements on terrorist financing, including nominations of individuals and entities associated with Al Qaeda, Osama bin Laden or the Taliban for mandatory sanctions under UNSCR 1267. We also lead U.S. initiatives to build international support for the U.N. 1267 sanctions process. The 1267 Sanctions Committee has listed over 300 persons and over 100 entities, including 139 names submitted by the United States.

Overseas, American diplomats are engaged in regular dialogue in support of U.S. strategies against terrorism and financial crime. We have instructed that at each mission, a senior official chair regular interagency meetings to develop and propose strategies aimed at building a broad international coalition through cooperation

with host governments against the financing of terrorism, including on designation, asset blocking, and capacity building.

#### **Standard-Setting**

In the area of international standard-setting, the Treasury Department leads U.S. efforts in the Financial Action Task Force, but State participates in its plenary and working group meetings to establish high-quality international standards in the areas of money laundering and terrorist financing. We work hand in glove with the Treasury and Justice Departments in this effort, including through diplomatic support provided by missions overseas in pushing the importance of the FATF criteria to host governments.

Treasury has provided invaluable leadership within the U.S. Government on our efforts to effectively utilize FATF to address terrorist financing. The FATF 40+9 Recommendations provide the international framework for a comprehensive national legal regime. FATF continues to clarify and refine these Recommendations through Interpretive Notes and best practices guidelines agreed by its 33 members.

State, along with Treasury and Justice, each funds a one-third share of the annual U.S. contribution to FATF. State's INL bureau provides the only U.S. funding support for FATF-style regional bodies (FSRB's) that, among other activities, adapt FATF Recommendations to regional requirements.

State has also sponsored an initiative in the Organization of American States to update the Inter-American Drug Abuse Control Commission (CICAD) Model Regulations on Money Laundering to reflect FATF standards and U.N. Security Council resolutions on terrorist financing.

#### **Capacity and Commitment**

The Department of State has been active in U.S. efforts to support global compliance with international standards, particularly in three areas:

- Assessing compliance with these standards;
- Providing capacity-building assistance for key countries in need; and
- Engaging governments and institutions on implementing measures to prevent terrorist financing and money laundering.

#### *Assessments*

The Department of State is a strong proponent of the FATF-style regional bodies (FSRB's) in their work adapting FATF standards to meet regional requirements. In Washington, we work closely on this endeavor with Treasury, the U.S. agency with policy lead on FSRB's, and Justice. Our overseas missions provide diplomatic support for the FATF and FSRB processes.

For example, to support global efforts to assess compliance with international standards, the Department's INL bureau has recently begun to earmark contributions through its funding mechanism for the FSRB's, and requiring statements of goals, objectives, and measures of performance from the recipient bodies.

We have supported Treasury in sharing best practices to combat money laundering and terrorist financing with international financial institutions including the IMF, the World Bank and the Inter-American and Asian Development Banks. We welcome last year's agreement by the FATF, IMF and World Bank to develop a common methodology to incorporate the FATF 40+9 into their country financial sector reviews.

#### *Capacity Building*

To help build global capacity, we work bilaterally and regionally as well as through multilateral organizations to develop, coordinate and implement anti-money laundering and counter-terrorist financing assistance programs.

State takes an active role in planning, funding and delivery of U.S. training and technical assistance to a selected group of some two-dozen countries where financial systems are particularly vulnerable to abuse by terrorists. This process demands close interagency cooperation, and we have been working hard to improve the process.

These bilateral assistance programs utilize a comprehensive model aimed at developing or reinforcing legal, judicial, financial regulatory, financial intelligence, and law enforcement capabilities. Programs encompass legislative drafting, FIU development, judicial and prosecutorial training, financial supervision, and financial crime investigative training, as well as the funding of long-term resident advisers, and are increasingly focused on addressing abuse of alternative remittance systems, non-profit organizations and cash couriers.

Last year, the U.S. Government provided anti-money laundering and terrorist financing training to more than 100 countries, and a total of over 130 since September 11. Some of this training was done on a regional basis, through Inter-



national Law Enforcement Academies (ILEA's) in Budapest, Gaborone, and Bangkok. Altogether, the United States has helped established five ILEA's to combat drug trafficking, criminality, and terrorism.

Other regional programs have included a partnership with the United Kingdom and European Union to develop and implement the recently completed 5-year Caribbean Anti-Money Laundering Program, and a similar program recently established for the 14 non-FATF members of the Pacific Island Forum. In Latin America, the United States has provided funds to the CICAD Money Laundering Group of Experts and to the 3+1 Group in South America.

State also leads the U.S. delegation to the G-8 Counter-Terrorism Action Group (CTAG) to coordinate the international provision of antiterrorism training and technical assistance. CTAG donors have established a gaps/assistance matrix based on the counterterrorism finance needs identified in FATF assessments of key countries, and agreed that sustained assistance over time is required to close the gaps. By mid-2005, 12 members of the CTAG, including the United States, had provided more than 200 coordinated technical assistance programs to more than 150 countries.

#### *Implementation*

Engaging other governments on the importance of implementing measures against terrorism finance and money laundering has been a cornerstone of our diplomatic strategy following September 11. Components of this engagement have included bilateral diplomacy, technical assistance, and work through multilateral institutions such as FATF and the United Nations.

In 2005, 17 countries promulgated or updated anti-money laundering and terrorist financing laws in 2005. The number of jurisdictions that have criminalized money laundering to include predicate crimes beyond narcotics increased to 172 from 163 in 2004. Ten more countries criminalized terrorist financing, bringing the total number of countries with such laws to 123. In addition, seven more financial intelligence units (FIU's) became members of the Egmont Group, raising its global membership to 101, and 123 governments are members of the seven FATF-style regional bodies (FSRB's).

U.S. Government assistance programs, coordinated with our embassies, continue to include programs to help governments to make the necessary legal and regulatory changes to ensure compliance with international standards and expectations.

State's INL bureau played a key role with Treasury and Justice in development of the FATF Non-Cooperative Countries and Territories (NCCT) process to reduce the vulnerability of financial systems to money laundering. Targeted Department assistance programs have contributed to removal of all 6 Western Hemisphere and 15 of the other 17 NCCT's from the FATF list. In 2005, FATF removed the Cook Islands, Indonesia, Nauru, and the Philippines from the list, leaving only Burma and Nigeria as remaining NCCT's.

State assistance to the United Nations Office on Drugs and Crime (UNODC) Global Program against Money Laundering has provided mentoring and other assistance for promoting compliance with FATF Recommendations and reinforcing of national anti-money laundering institutions capable of combating the financing of terrorism.

The Department's annual International Narcotics Control Strategy Report (INCSR) assesses the global money laundering situation and national as well as multilateral anti-money laundering efforts in a separate volume on money laundering and financial crimes that also addresses terrorist financing.

This report features summaries and comparative analyses on more than 200 governments, and is recognized worldwide as a standard reference for identifying critical weaknesses in anti-money laundering systems. The State Department, on behalf of the more than a dozen contributing agencies, was gratified that September 11 Commission Co-Chairman Lee Hamilton testified before the House Financial Services Committee to the INCSR's usefulness.

#### **Additional Contributions**

In addition to the aforementioned, the Department of State contributes to efforts in areas which, although related more directly to our larger counterterrorism efforts, support U.S. efforts against the financing of terrorism. These include, most prominently, economic policies favorable to development, and public diplomacy.

#### *Economic Tools*

This discussion of the Department's role has focused on direct actions that we are taking to fight terrorism and terrorist financing. But there are longer-term, indirect actions that can help to address the economic conditions that support terrorist rhetoric and recruitment.

One of the recommendations of the September 11 Commission focused on the need to include in our comprehensive counterterrorism strategy policies to encourage de-

velopment and open societies to improve the lives of those who might otherwise turn to terrorism. In the post-September 11 world, it is now clear as never before that the national security of the United States and the economic development of the world's poorest countries are inextricably linked.

As a matter of U.S. policy, development is central to the National Security Strategy, which the President issued on March 16 this year. It states: "Development reinforces diplomacy and defense, reducing long-term threats to our national security by helping us build stable, prosperous, and peaceful societies." In addition to our core AID programs, examples of policy tools aimed at promoting this goal include:

The Millennium Challenge Account (MCA) provides assistance to reduce poverty through economic growth in those countries that rule justly, invest in their people, and encourage economic freedom. The MCA is based on the finding, and common sense notion, that aid is most effective when invested in countries that are committed to good governance and already have good policies in place.

Our long-standing support for the Heavily Indebted Poor Countries (HIPC) initiative promotes debt sustainability and enables the poorest countries to devote additional resources to reducing poverty and promoting economic growth.

Both the MCA and HIPC reflect the President's National Security Strategy, which states: "Improving the way we use foreign assistance will make it more effective in strengthening responsible governments, responding to suffering, and improving people's lives."

An aggressive U.S. multilateral and bilateral trade agenda to liberalize global markets also supports our development goals, especially in realizing the President's bold vision of a Middle East Free Trade Area (MEFTA)—concluding Free Trade Agreements with Oman, Bahrain, and Morocco (the last already in force), developing special export zones in Egypt and Jordan, and considering others in Pakistan and Afghanistan. Saudi Arabia became a full member of the World Trade Organization in December 2005.

Bilateral Investment Treaties (BIT's) support adoption of market-oriented policies that can promote growth and new employment. For example, we are negotiating a high-standard BIT with Pakistan that supports the adoption of market-oriented policies that can promote growth and new employment and reduce poverty.

#### *Public Diplomacy*

The Department of State is also working to address the September 11 Commission's critique of U.S. public diplomacy efforts aimed at countering terrorism.

In recent months, we have ramped up our efforts to get our message before the public. When I have traveled to discuss terrorism finance issues, I also met with local journalists. When I could not travel to speak at a conference on terrorist financing last November in Madrid, I made arrangements to address participants through videoconferencing. I know my colleagues from Treasury and other departments are making similar outreach efforts.

State also provides briefings on combating terrorism finance to a mix of foreign professionals—including law enforcement, legislators and government officials, judges, attorneys, and journalists from many parts of the world. These have been very lively sessions that have given us an opportunity to clarify misunderstandings and garner greater support for meeting U.S. objectives.

We are making a concerted effort to place opinion pieces by U.S. Government officials in key media outlets throughout the world. This year we have placed opinion pieces in every continent in multiple languages reaching millions of foreign readers, including a recent placement in pan-Arab newspapers. The number of readers we reach is only part of the story—the fact is these opinion pieces do influence changes in foreign legislation and spur more effective law enforcement efforts overseas.

The most recent opinion piece discusses concern over misuse of charitable donations and explains the steps which governments can take to both protect those who donate to charities and to regulate charitable organizations in a way that facilitates rather than hindering their work. This piece has been placed in leading newspapers in Saudi Arabia, Jordan, Indonesia, and Sri Lanka, as well as the pan-Arab *Ash-Sharq al-Awat*, and will be published in European and African capitals in the days ahead.

We regularly provide targeted talking points for U.S. embassies to use to educate the public and government officials about the risks and links between terror financing, money laundering, arms trade and drug smuggling. We also provide ongoing training to U.S. foreign service officers and other U.S. government officials on the public diplomacy aspects of discussing terror financing issues with overseas audiences.

### *Recent Developments*

Mr. Chairman, when we last met in July 2005, my remarks focused on money laundering and terrorist financing in the Middle East and Pakistan. At this time, I would like to take a few minutes to update the Committee on developments in these areas, as well as provide an overview of issues in other regions and international organizations where the Departments of State, Treasury, and other agencies, as well as U.S. diplomatic missions, have been active.

Key recent developments include:

- U.N. Security Council adoption of measures to strengthen international sanctions against the Taliban and Al Qaeda.
- Thirty-five new listings for sanctions under UNSCR 1267, including the Movement for Islamic Reform in Arabia (MIRA) and Al-Akhtar Trust International, sponsored by seven different governments including the United States.
- International consensus at the Financial Action Task Force on implementing oversight of nonprofit organizations.
- Inauguration of the United States-Saudi Strategic Dialogue and the United States-UAE Terrorist Financing Coordinating Committee.
- Adoption of best practices papers on charities, cash couriers, and hawala by the Middle East and North Africa Financial Action Task Force (MENAFATF).
- Ongoing anti-money laundering programs aimed at strengthening existing law and building effective financial intelligence units; the Saudi financial intelligence unit is now fully operational.
- Regular dialogue with the European Union on terrorism finance issues.
- EU adoption of legislation on money laundering and regulation of cash couriers, and guidance on oversight of charities.

### **United Nations**

During my testimony last July, I briefly touched on work we were doing in New York to improve the effectiveness of the U.N. sanctions regime targeting the Taliban and Al Qaeda. Later that same month, those negotiations resulted in the unanimous adoption by the Security Council of UNSCR 1617.

This resolution extends the mandate of the 1267 Sanctions Committee's Monitoring Team: The eight experts, including one American, who are its eyes and ears. It also clarified what constitutes association with Al Qaeda, adds enhanced due-process provisions to the listing process and "strongly urges all member states to implement the comprehensive international standards embodied in the FATF 40 Recommendations on Money Laundering and the FATF Nine Special Recommendations on Terrorist Financing."

This outcome benefited from teamwork by a State/Treasury/Justice team that worked intensively to develop the language in 1617 and garner international support for the resolution.

UNSCR 1624, a resolution related to the incitement of terrorist acts, was adopted unanimously in September at a Security Council summit as part of the U.N.'s response to terrorism. We are currently discussing the elements of a strategy to drive effective implementation of this resolution internationally.

### **FATF and FATF-Style Regional Bodies**

#### *FATF*

With strong leadership by Treasury, the USG team has worked successfully to build cooperation and promote best practices.

The Financial Action Task Force adopted an Interpretative Note to guide members' implementation of its Special Recommendation VIII on oversight of nonprofit organizations at its February 2006 meeting in Cape Town. Agreement followed months of negotiation, where Treasury led the U.S. team, and represents international consensus on common priorities and procedures to avoid abuse of the sector by terrorist financiers.

FATF also agreed to establish an ad-hoc process to address outstanding membership questions, including the appropriate size of the organization and other governments' interest in joining.

The two new FAFT-style regional bodies (FSRB's) recognized by FATF in 2004, the Middle East and North African Financial Action Task Force (MENAFATF) and the Eurasia Group (EAG), brought the total number of FSRB's to eight. The United States holds observer status with each. Both have been active putting programs into operation.

#### *MENAFATF*

MENAFATF has already proven itself one of the most engaged of the regional bodies. It has formed several active working groups and issued commendable best

practices papers in the areas of bulk cash smuggling, supervision of charities, and underground banking. Mutual evaluations will get underway this year.

MENAFATF held its most recent plenary in Cairo March 22–23, and supported March 24–25 the United States-MENA Private Sector Dialogue on Combating Laundering and Terrorist Financing.

#### *Eurasia Group (EAG)*

The Eurasia Group (EAG) is working to compile a comprehensive list of regional training and technical assistance needs and donors. It is also establishing a regional training center in Moscow to be managed by its Russian-led secretariat. Mutual evaluations will begin this year.

Charter members of the EAG include Belarus, China, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, and Uzbekistan. Ukraine was added as a member at the most recent plenary in Moscow in December.

### **Middle East**

#### *Gulf States*

We are continuing high-level interagency engagement with all the Gulf States, focusing on sustaining their capacity to effectively address the terrorist threat. The U.S. Government has conducted Anti-Terrorism Assistance (ATA) programs with all the states of the Arabian Peninsula.

The Gulf States have made significant progress in improving their abilities to combat terrorist financing, and have worked closely with us in this area. They have diligently implemented U.N. Security Council sanctions.

While there is more that can be done, we have developed highly cooperative and mutually beneficial relations with the Gulf States in the areas of law enforcement, intelligence sharing, and terrorist finance. We are presently working with them to combat the illicit use of cash couriers, which is especially pertinent to these cash-based economies.

#### *Saudi Arabia*

We continue to engage Saudi Arabia through regular, high-level diplomatic meetings to urge enhanced emphasis on combating terrorist finance. I want to highlight for you a number of cooperative activities we are currently engaged in with Saudi counterparts:

This past year, we established the United States-Saudi Strategic Dialogue, which Secretary Rice inaugurated during her November 2005 visit to Riyadh. The Dialogue includes a number of working groups, including one dedicated to counterterrorism, which will creatively address terrorist finance, among other key issues. A second round of the Dialogue is scheduled to take place in the United States later this year.

Saudi Arabia is working to establish a charities commission to regulate all charitable donations leaving the kingdom. We continue to stress the need for appropriate regulatory oversight of all charitable organizations headquartered there, such as the World Muslim League, the International Islamic Relief Organization (IIRO), and the World Assembly of Muslim Youth (WAMY). Senior Saudi officials have reiterated, as recently as last week, that existing regulations prevent unauthorized bank money transfers by charities from leaving Saudi Arabia.

In late 2005, the Government of Saudi Arabia enacted stricter regulations on the cross-border movement of funds. Money in excess of \$16,000 must be declared upon entry and exit from the country. While the regulations were effective immediately, Customs staff training is continuing, as highlighted by recent discussions with senior Saudi officials. A cash declaration process is also now in place.

The Saudi Government is also working to strengthen its nascent Financial Investigations Unit (FIU), established in 2005 and now up and running and receiving reports from Saudi financial institutions. We have consistently urged the Saudis to accelerate the FIU's membership in the Egmont Group of financial intelligence units in order to facilitate the international sharing of financial information. The Financial Crimes Enforcement Network (FinCEN), the U.S. financial intelligence unit, is working with the Saudi unit on the Egmont application process and plans to sponsor it when it qualifies.

#### *Kuwait*

Kuwait is currently working to revise and strengthen its anti-money laundering law to specifically criminalize terrorist financing. We expect that draft legislation to be ready for review by the cabinet and parliament by the summer.

Kuwait's Ministry of Social Affairs has dismantled all unlicensed charity kiosks, some of which had been linked to terror financing.

In December 2005, Kuwaiti Customs, in conjunction with DHS, hosted a conference to train Kuwaiti officials on preventing terror financing.

#### *UAE*

The United States-UAE Joint Terrorist Financing Coordinating Committee (JTFFCC) was launched in January 2006. This interagency, bilateral effort allows high-ranking U.S. officials to work directly with their UAE counterparts to address a range of issues, including cash couriers, charities, and hawala. The second JTFFCC meeting will take place in the weeks ahead in Abu Dhabi.

Since 2000, the UAE Government has frozen \$1.3 million of funds in 17 different accounts based on U.N. sanctions. It has also been a leader in setting up new standards for controlling hawala. The UAE passed an antiterror law in July 2004, encouraged attendance at the Middle East Law Enforcement Training Center and has signed all 12 U.N. Counterterrorism Conventions.

#### *Iraq*

In Iraq, we continue to work hard to support government capacity-building across the spectrum. Iraq is in the process of establishing a Money Laundering Reporting Office in the Central Bank of Iraq (CBI) to collect, analyze, and disseminate information on financial transactions subject to financial monitoring and reporting, including suspicious activity reports. The United States is working with the CBI to build this capacity and to implement the day-to-day functions of a financial intelligence unit.

The USG aims to help Iraq modernize its banking system, establish international standards in its banking regulations and implement and enforce existing laws to combat terrorism financing.

USG assistance to the Central Bank includes providing technical advice on international accounting standards, bank supervision, and licensing. A performance and management assessment of all the state-owned banks was completed this year to establish a baseline for restructuring the banks. The USG is also assisting the GOI with developing a new national payments system that will help increase transparency in the banking system and help the Central Bank in its supervisory role.

We are providing assistance to Iraq's private sector banks in the area of cashflow-based lending, strengthening private banking associations, and helping private international banks to register in Iraq.

We are also working with Iraq to ensure that any new legislation that replaces or enhances the current anti-money laundering act (CPA Order 93) will meet international standards.

#### *Jordan*

The Jordanian Government has submitted draft anti-money laundering and bank secrecy legislation for approval by Parliament and is working to strengthen its anti-money laundering and terrorist finance controls.

The U.S. Government, in coordination with the Government of Jordan, has assigned a Treasury Attaché to Amman to provide technical assistance and training to Jordanian banking and law enforcement officials, as well as to others in the region.

We have a robust ATA program in place with Jordan, and excellent cooperation in the areas of law enforcement and intelligence-sharing. We are also negotiating a Millennium Challenge Account threshold program to improve governance and business climate.

#### *Syria*

On March 9, 2006, Treasury issued a final rulemaking that prohibits all U.S. financial institutions from maintaining or opening correspondent accounts used by or on behalf of the Commercial Bank of Syria (CBS), pursuant to Section 311 of the USA PATRIOT Act, due to CBS's involvement in money laundering and terrorist financing.

The international community has been clear about what it expects of Syria: The government must end the flow of weapons and funds to terrorist groups, such as Hizballah, within Lebanon; it must work to curb the flow of foreign fighters into Iraq; and it must close the offices of Palestinian terrorist groups in Damascus.

#### *Lebanon*

On March 23, 2006, the Department of the Treasury designated al-Manar, a satellite television operation owned and controlled by Hizballah, as a terrorist organization pursuant to E.O. 13224. The order also designated al-Nour Radio and the parent company of both groups, the Lebanese Media Group (LMG). Hizballah, a des-

ignated foreign terrorist organization, works through and with these entities to raise funds, recruit, and otherwise support terrorist activities.

### **South Asia**

#### *Pakistan*

Pakistan's proposed anti-money laundering legislation, drafted with U.S. assistance and approved in cabinet last year, remains in Parliament. We are concerned that some elements may not meet international standards, and are trying to engage the Pakistani Government to correct deficiencies. Lack of action, including establishment of a financial intelligence unit, leaves us unable to accelerate planned assistance.

In the absence of legislation, Pakistani banking and securities regulators have introduced regulations to improve oversight consistent with Financial Action Task Force regulations.

We welcome the concrete actions Pakistan has taken in response to U.N. Security Council Resolutions, including the freezing of over \$10 million of Al Qaeda assets. However, the presence of Al Qaeda, other terrorist groups and front organizations, porous borders, and widespread informal, cash-based financial networks mean Pakistan will remain a focus of concern for some time.

We are encouraged by Pakistan's concern that terrorist groups may be presenting themselves as charitable organizations. We would welcome the opportunity to provide technical assistance to help the government meet international standards on preventing abuse of the nonprofit sector. Involvement in post-earthquake relief efforts by front organizations for terrorist entities designated by the 1267 Committee raises serious concerns that funds from international donors for earthquake relief and reconstruction could be diverted. We have shared these concerns with Pakistan and have made clear the types of steps the government needs to take to prevent this from happening.

For example, we worked extensively with USAID, which in turn worked with its contractors to make sure that no subcontracts were awarded to terrorist groups. USAID and the Department also worked with private sector donors and NGO's to this end. Treasury contributed guidelines on this subject, which are posted on Treasury's website.

#### *Afghanistan*

Afghanistan has made significant progress in creating and enacting a legal framework to combat money laundering and the financing of terrorism in the formal banking sector. However, 25 years of armed conflict devastated physical infrastructure and human capacity in all economic sectors. Commercial banks have only recently reopened in major cities, and the country's informal financial sector remains large and well-established.

The Central Bank's primary challenge is to extend formal regulatory oversight to the informal financial sector. It has the legal authority to do so, but many foreign exchange dealers and money service providers see the requirements as overly burdensome.

Under legislation adopted in 2004, Afghanistan has set up a financial intelligence unit, and an embedded U.S. Treasury adviser is working with the Central Bank to help the FIU become fully operational. The FIU is working with the informal financial sector to implement regulations, but full implementation will require enforcement capacity which the Ministry of Interior and the Attorney General's office do not currently possess.

President Bush has expressed strong support for working with Afghanistan and Pakistan to establish Reconstruction Opportunity Zones (ROZ's), with the idea of greater commercial opportunities and jobs as an alternative to extremist recruitment. We envision that a defined range of products in these ROZ's would receive duty-free entry into the United States, including some products that are not currently eligible for duty-free treatment under GSP. The recently launched United States-Afghanistan Partnership includes an economic prosperity component and highlights both ROZ's and Business Building Bridges initiatives.

Additionally, we are working with the Multilateral Development Banks and the Governments of the South and Central Asian countries to promote regional cooperation and economic integration.

### **East Asia**

#### *Indonesia*

We continue to see results from counterterrorism finance and anti-money laundering assistance provided by Washington agencies in the wake of the 2002 attack in Bali:

- Indonesia's financial intelligence unit has been fully operational since October 2003, receiving and analyzing suspicious transaction reports; over 20 cases have been successfully prosecuted.
- The Indonesian National Police has established a specialized counterterrorism unit that includes financial investigators who have received counterterrorism finance and anti-money laundering training.
- The Indonesian Central Bank has put in place rules and procedures to enhance anti-money laundering compliance for private sector banks.

A U.S. Resident Legal Advisor at Embassy Jakarta is assisting the Indonesian Government in implementing anti-money laundering legislation and preparing cases to prosecute financial crimes. Changes in its legal regime led to removal of Indonesia from the Financial Action Task Force's Non-Cooperating Countries and Territories list in February 2005.

Partly due to lack of interministerial coordination, Indonesia's performance in implementing U.N. sanctions provides an area for improvement. We have provided some training, including on oversight of charities, and are assessing other areas where training might be appropriate.

The Millennium Challenge Corporation is currently negotiating a threshold program with Indonesia that would attack corruption, particularly in the judiciary.

## **Europe**

### *European Union*

Cooperation with the European Union is increasingly guided by the United States-European Union dialogue on terrorism finance issues, established in September 2004 in fulfillment of 2004 United States-European Union summit commitments. This process brings key players together for regular review of current issues, and provides a framework for joint expert-level projects in areas including prosecution, law enforcement, designation, and technical assistance.

The United States interagency delegation, which I chair, meets with representatives of key European Union institutions during each 6-month European Union Presidency to set direction and assess progress.

Informal expert groups of judicial, technical assistance and designation professionals have begun organizing joint work programs. They have organized United States-European Union workshops on judicial and designation issues, and conducted a joint financial sector assessment in Tanzania. In November, they held a workshop on implementing FATF standards for asset freezing, with follow-up meetings planned this year on enforcement and listing/de-listing issues.

Discussions are also ongoing aimed at compiling a shared database on treatment of classified information in the United States and European Union states. However, attempts to implement a 2004 summit agreement to analyze frozen accounts depend on member states' willingness to provide Europol with the necessary authority.

We are also engaging the EU through key member states and international organizations. Resolving differences of approach with respect to the use of administrative or preventive freezing and criminal proceedings remains a key challenge. However, with prodding by FATF and the UK's EU Presidency last fall, more EU member states are taking steps to put legal authorities in place to freeze terrorist assets independent of EU action.

Over the last year, the EU has moved forward with legislation to implement the FATF Special Recommendations on Terrorist Financing. It adopted new measures on money laundering, which also addressed terrorism finance issues, and on regulation of cash couriers. Legislation covering wire transfers is currently before the European Parliament.

The European Commission issued guidance to member state governments last December on oversight of charitable organizations, and has invited U.S. participation in a conference this fall on preventing abuse of the nonprofit sector.

### *Russia*

With legislation and enforcement mechanisms in place, cooperation with Russia is improving:

- United States and Russian law enforcement agencies have worked together on a number of high-profile money laundering cases, resulting in successful prosecutions in the Russian courts.
- The United States and Russian financial intelligence units (for the United States, Treasury's Financial Crimes Enforcement Network) have established a productive working relationship, sharing sensitive financial information on suspicious transactions almost daily.

- The United States-Russia Counterterrorism Working Group (CTWG) meets twice a year to review bilateral cooperation on a range of counterterrorism issues, including terrorism finance.

Russia spearheaded creation of the EAG in 2004. With United States support, Russia has led efforts to make the Eurasia Group (EAG) an effective FATF-Style Regional Body. The United States has detailed a Treasury advisor to the EAG to support Russia's efforts to bring EAG members' legal systems up to international standards.

However, our views and Russia's have sometime diverged regarding the U.N. 1267 Sanctions Committee's listing process, and we are working to improve our coordination on these issues. In other respects, Russia has been a key partner in UN counterterrorism initiatives. United States cooperation with Russia produced the initial draft of UNSCR 1617. Russia also played a key role in our shared effort with the other permanent members of the Security Council to convince China to approve the resolution's endorsement of the FATF 40+9 Recommendations.

## **Latin America**

### *Triborder Area*

Although there is no credible information indicating that Islamic terrorist cells are planning attacks in Latin America or the Caribbean, the United States Government remains concerned that Hizballah and HAMAS fundraisers are active among the large Muslim communities of the largely uncontrolled Triborder Area (TBA) of Argentina, Brazil, and Paraguay.

We remain concerned that proceeds from narcotics and piracy of goods may be used to support Hizballah in the three TBA countries. In September 2005, the Department of State provided \$750,000 to the Department of Homeland Security's U.S. Immigration and Customs Enforcement (ICE) to establish trade transparency units (TTU's) in these countries. The TTU's will enable the TBA countries and the USG to compare trade data declared at origin and destination of trade transactions; discrepancies will alert authorities to the possibility of fraud, money laundering, or terror financing. Each TTU will be a vetted unit that includes representative of the customs service, financial intelligence unit, law enforcement agencies and, where applicable, the judiciary.

We have been working with all three countries to strengthen their capabilities to deal with financial crimes in other ways:

On March 30, Argentina's Chamber of Deputies passed long-delayed money laundering legislative reforms. The U.S. Embassy in Buenos Aires has engaged in an extended lobbying campaign to for passage of the law, which was earlier approved by the Senate. Argentine press reports have highlighted the role of both the United States and the FATF in pressing for the changes. Coincidentally, passage occurred during a high-level visit by the FATF President and Executive Secretary.

The Brazilian Government is currently drafting legislation that would criminalize terrorist financing, refine its anti-money laundering regime, and provide administrative authority to freeze financial transactions. I understand Assistant Treasury Secretary O'Brien's recent visit to Brazil included consultations on this issue. He also visited Paraguay and Argentina to promote cooperation.

I raised the importance we attach to passage of Paraguay's anti-money laundering legislation during high-level meetings with Paraguayan officials last month in Washington, echoing Assistant Secretary O'Brien's message in Asuncion. The law, drafted with U.S. assistance, would criminalize and enable effective prosecution of money laundering, but has languished in Congress for almost 2 years, although it may be gaining traction. A \$35 million Millennium Challenge Account threshold program, approved in February, would accelerate effective implementation of the law as well as fight corruption and illicit commerce.

While it remains unclear whether and to what extent intellectual property (IP) piracy is a vehicle for terrorist groups to raise funds, the State Department is providing significant bilateral training and technical assistance to the Paraguay in combating rampant intellectual property piracy in the Tri-Border region, provides IP training to Brazilian police, and plans to involve Paraguay, Brazil, and Argentina in regional training to strengthen cross-border customs cooperation.

## **Africa**

### *South Africa*

South Africa is the major financial center in the region, and has a strong track record of cooperation with the United States in exchanging information relating to money laundering and terrorist financing.



Its legislation for dealing with money laundering and terrorist financing has been in place since May 2005 and stands out in a region where few countries have adequate legal or regulatory regimes in place. It provides the government with investigative and asset-seizure powers in case of suspected terrorist activity, and is applicable to charitable and nonprofit organizations as well as financial institutions.

Detailed implementation of this legislation remains a work in progress. The USG interagency continues to engage the South African Government to undertake measures to control cross-country currency movement, fully implement the new legislation and take steps to regulate alternate remittance systems.

#### **The Challenges Ahead**

In my presentation today I have attempted to emphasize two themes: (1) we continue to make progress with partners throughout the world against the common threat of terrorism and its financing; and (2) there is much that remains to be done.

In closing, I would like to return to the idea that we have entered a new phase in the campaign against terrorism finance. We are moving far beyond a focus on freeze-and-seize tactics toward a more strategic approach on building coalitions with close partners to make it progressively harder for terrorist-linked money to be collected and moved. Areas that are becoming increasingly prominent in our discussions include:

- Non-traditional financing mechanisms, including cash couriers, Islamic banking, hawala, and other alternative remittance systems.
- Non-profit organizations, including front organizations and charities set up to funnel funds to terrorist organizations.
- Corruption, financial crime, and trade-based schemes in support of terrorist activities and organizations.
- State sponsors of terrorism and their role in terrorist financing.

Our work in these areas will build on the coalition that has come together since September 11 to safeguard the international financial system. We will continue to adapt use of multilateral sanctions, establishment of international standards, and technical assistance cooperation to changed circumstances, but our shared goal remains the same: Isolate terrorist financiers, insulate the financial system, and unite the international community through collective action.

I welcome your thoughts on these and other key challenges as we move forward. Thank you very much.

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#### **PREPARED STATEMENT OF MICHAEL MOREHART**

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APRIL 4, 2006

Good morning Chairman Shelby, Ranking Member Sarbanes, and distinguished Members of the Committee. On behalf of the Federal Bureau of Investigation, I am honored to appear before you today to discuss the FBI's efforts to disrupt and dismantle national and international money laundering operations and the operational impact of the successful utilization of information obtained from the financial sector.

#### **Introduction**

Chief among the investigative responsibilities of the FBI is the mission to proactively neutralize threats to the economic and national security of the United States of America. Whether motivated by criminal greed or a radical ideology, the activity underlying both criminal and counterterrorism investigations is best prevented by access to financial information by law enforcement and the intelligence community.

In the "criminal greed" model, the FBI utilizes a two-step approach to deprive the criminal of the proceeds of his crime. The first step involves aggressively investigating the underlying criminal activity, which establishes the specified unlawful activity requirement of the Federal money laundering statutes, and the second step involves following the money to identify the financial infrastructures used to launder proceeds of criminal activity. In the counterterrorism model, the keystone of the FBI's strategy against terrorism is countering the manner in which terror networks recruit, train, plan, and effect operations, each of which requires a measure of financial support. The FBI established the Terrorist Financing Operations Section (TFOS) of the Counterterrorism Division on the premise that the required financial support of terrorism inherently includes the generation, movement, and expenditure

of resources, which are oftentimes identifiable and traceable through records published by financial institutions.

The analysis of financial records provides law enforcement and the intelligence community real opportunities to proactively identify criminal enterprises and terrorist networks and disrupt their nefarious designs.

#### **Traditional Criminal Money Laundering Investigations**

Money laundering has a significant impact on the global economy and can contribute to political and social instability as well, especially in developing countries or those historically associated with the drug trade. The International Monetary Fund estimates that money laundering could account for 2 to 5 percent of the world's gross domestic product. In some countries, people eschew formal banking systems in favor of Informal Value Transfer systems such as hawalas or trade-based money laundering schemes such as the Colombian Black Market Peso Exchange, which the Drug Enforcement Administration estimates is responsible for moving \$5 billion worth of drug proceeds per year from the United States to Colombia. Hawalas are centuries-old remittance systems located primarily in ethnic communities and based on trust. In countries where modern financial services are unavailable or unreliable, hawalas fill the void for immigrants wanting to send money home to family members, or unfortunately, for the criminal element to launder the proceeds of illegal activity.

There are several more formalized venues that criminals use to launder the proceeds of their crimes, the most common of which is the U.S. banking system, followed by cash intensive businesses like gas stations and convenience stores, offshore banking, shell companies, bulk cash smuggling operations, and casinos. Money services businesses such as money transmitters and issuers of money orders or stored value cards serve an important and useful role in our society, but are also particularly vulnerable to money laundering activities. A review of Suspicious Activity Reports filed with the Financial Crimes Enforcement Network (FinCEN) indicated that approximately 73 percent of money services business filings involved money laundering or structuring.

The transfer of funds to foreign bank accounts still presents a major problem for law enforcement. Statistical analysis indicates that the most common destinations for international fund transfers are Mexico, Switzerland, and Colombia. As electronic banking becomes more common, traditional fraud detection measures become less effective, as customers open accounts, transfer funds, and layer their transactions via the Internet or telephone with little regulatory oversight. The farther removed an individual or business entity is from a traditional bank, the more difficult it is to verify the customer's identity. With the relatively new problem of "nesting" through correspondent bank accounts, a whole array of unknown individuals suddenly have access to the U.S. banking system through a single correspondent account. Nesting occurs when a foreign bank uses the U.S. correspondent account of another foreign bank to accommodate its customers. A foreign bank can conduct dollar-denominated transactions and move funds into and out of the United States by simply paying a wire processing fee to a U.S. bank. This eliminates the need for the foreign bank to maintain a branch in the United States. For example, a foreign bank could open a correspondent account at a U.S. bank and then invite other foreign banks to use the account. The second-tier banks then solicit individual customers, all of whom would have signatory authority over the single U.S. correspondent account.

The FBI currently has over 1,200 pending cases involving some aspect of money laundering, with proceeds drawn from criminal activities including organized crime, drug trafficking, fraud against the government, securities fraud, health care fraud, mortgage fraud, and domestic and international terrorism. By first addressing the underlying criminal activity and then following the money, the FBI has been able to make significant inroads into the financial infrastructure of domestic and international criminal and terrorist organizations, thereby depriving the criminal element of illegal profits from their schemes.

In recent years, the international community has become more aware of the economic and political dangers of money laundering and has formed alliances on several fronts to share information and conduct joint investigations. Members of the Egmont Group, a consortium of Financial Intelligence Units of which the United States is a member, can access a secure website developed by FinCEN to share vital information on money laundering between participating countries. In a further demonstration of international cooperation, over 150 nations have now adopted stringent anti-money laundering standards promulgated by international Financial Action Task Forces. Congress has also assisted our efforts by passage of the USA PATRIOT Act, as Section 319(a) of the Act now permits the government to seize assets held

in an U.S. correspondent account in lieu of criminal proceeds deposited abroad in a foreign bank. Illegal proceeds deposited in offshore accounts are much more difficult for U.S. law enforcement to reach.

As it relates to international money laundering enforcement, the FBI is an active participant in the Financial Action Task Force (FATF). Since its creation, the FATF has spearheaded the effort to adopt and implement measures designed to counter the use of the financial system by criminals. It established a series of recommendations in 1990, which were revised in 1996 and in 2003, to ensure that they remain up-to-date and relevant to the evolving threat of money laundering. These recommendations set out the basic framework for anti-money laundering efforts and are intended to be of universal application. All member countries have their implementation of the forty recommendations monitored through a two-pronged approach: An annual self-assessment exercise and the more detailed mutual evaluation procedure. The FBI participated in the recent FATF mutual evaluation of the U.S. anti-money laundering compliance.

### **Terrorism Investigations**

Access to financial information significantly enhances the ability of law enforcement and members of the intelligence community to thwart the efforts of terrorists. The lack of complete transparency in the financial regulatory system is a weakness on which money launderers and facilitators of terrorism rely and has proven to be critical to the financing of global terrorism and the provision of funds for terrorist attacks. Limited access to financial records inhibits law enforcement's ability to identify the financial activities of terror networks. Efforts to detect terrorist activity through financial analysis are further complicated by the fact that the funding of terrorism may differ from traditional money laundering because funds used to support terrorism are sometimes legitimately acquired, for example, charitable contributions and business proceeds. Overcoming these challenges in our efforts to prevent acts of terror has required increased cooperation with partner law enforcement agencies, the intelligence community, and the private financial and charitable sectors.

Records produced and maintained by financial institutions pursuant to the Bank Secrecy Act (BSA) are of considerable value to these critical efforts. As I have previously testified to the U.S. House of Representatives Committee on Financial Services, the FBI enjoys a cooperative and productive relationship with FinCEN, the purveyor of BSA information. This cooperation has broadened the FBI's access to BSA information which, in turn, has allowed us to analyze this data in ways not previously possible. When BSA data is combined with the sum of information collected by the law enforcement and the intelligence communities, investigators are better able to "connect the dots" and, thus, are able to identify the methodology employed to transfer currency or move value. The result of this collaborative relationship and access to financial intelligence is a significant improvement in the efficiency with which we interact to address the investigation of terrorist financing matters.

The ability to quickly and securely access and compare BSA data to classified intelligence and law enforcement information is critical. Sometimes the investigative significance of a BSA filing cannot be appreciated until the items included on the document are compared against predicated law enforcement or intelligence information that may not be of public record. Such critical information can be biographical and descriptive information, the identification of previously unknown associates and co-conspirators, and, in certain instances, the location of a subject by time and place. Abundant examples exist of activities noted in BSA reports which have added value to counterterrorism investigations, oftentimes in ways that could not have been predicted from the reports alone. BSA data allows for a more complete identification of the respective subjects such as personal information, nonterrorism related criminal activity, previously unknown businesses and personal associations, travel patterns, communication methods, resource procurement, and Internet service providers.

The value of BSA data to our efforts cannot be overstated; the importance of access to that information has already proven invaluable on the micro, or individual case level, as well as the macro, or strategic level. BSA data has proven its great utility for counterterrorism matters, and any contemplated change to the underlying reporting requirements of the BSA should be measured and carefully considered before such action is taken. Either increasing the transaction amount at which a Currency Transaction Report (CTR) would be generated or abolishing the recordation requirement altogether would deprive law enforcement of what has proven to be valuable intelligence.

Recent analysis on the macro level of the impact of BSA data provided by FinCEN to the FBI reinforces the investigative significance of the BSA data as follows:

- For the years 2000 through 2005, 38.6 percent of all the CTR's filed reported amounts between \$10,000 and \$14,999.
- For the same time period, 18.5 percent of all the CTR's filed reported amounts between \$15,000 and \$19,999.
- CTR's reporting amounts between \$20,000 and \$24,999 comprised 10.8 percent of all CTR's filed during the time period.
- CTR's reporting amounts between \$25,000 and \$29,999 comprised 6.2 percent of all CTR's filed.
- CTR's in the amounts between \$30,000 and \$34,999 comprised 4.7 percent of all CTR's filed.
- Transaction amounts reported between \$35,000 and \$100,000 comprised 19 percent of the total CTR's.
- CTR's reporting \$100,000 and more equaled less than 2 percent of all CTR's filed.

To determine the operational impact of BSA data relative to FBI investigations, a sample of FBI records for the years 2000 through 2005 were matched by exact name and date of birth or by exact Social Security number to almost 13,000 CTR's reported in the same time period.<sup>1</sup> This statistical sample, when extrapolated to the universe of CTR's, concludes that in excess of 3.1 million CTR's were pertinent to FBI investigations during that time period. The breakdown of the sampled CTR's deemed relevant to FBI investigations reveals:

- 29.2 percent of the CTR's reported transactions in amounts between \$10,000 and \$14,999.
- 20.2 percent reported transactions in amounts between \$15,000 and \$19,999.
- 10.2 percent reported amounts between \$20,000 and \$24,999.
- 6.2 percent reported amounts between \$25,000 and \$29,999.
- 6.0 percent reported amounts between \$30,000 and \$34,999.
- 28 percent reported between \$35,000 and \$100,000.
- Less than 1 percent that reported over \$100,000.
- 72 percent of the reported CTR's deemed pertinent to FBI investigations were in amounts less than \$35,000.

The \$10,000 CTR reporting threshold was established in 1973. Since that time, technology associated with the movement of money has advanced significantly. As a result, the movement of funds through electronic means has now become the standard. It should be noted that CTR's are not required for the electronic movement of funds. The practical effect on law enforcement activities of an increase to the CTR threshold reporting amount would be to severely limit or even preclude law enforcement access to financial data associated with cash transactions that are not otherwise documented. In other words, the filing of CTR's, at the current reporting threshold, ensures a degree of transparency in the financial system that would not otherwise be available.

Another topic of importance with respect to the filing of CTR's is the "seasoned customer" exemption. As you are aware, the BSA allows financial institutions to seek CTR filing exemptions pursuant to the "Designated Exempt Persons" (DEP) protocol. We are opposed to any such exemptions for long-term, well-established, and documented customers that would be for a class of customer beyond the current regulatory regime, which includes ineligible nonlisted business, such as money service businesses. We would also caution against the use of a specified time period as the only requirement for exemption under the DEP.

While Section 314(a) requests and Suspicious Activity Reports (SAR's) are extremely valuable tools, the notion that these tools are a substitute for the intelligence gleaned from currency transaction reporting is inaccurate. CTR's are objective reports that document an event in time, providing such information as the identity of the transactor, the bank name, account number, account owner, and dollar amount. Additionally, these reports are available for at least a 10-year period, and investigators and analysts have the ability to directly query these reports when necessary.

<sup>1</sup> Based on the random sampling of FBI investigative records from the whole of FBI investigative records for the years 2000 through 2005, it is statistically attestable that a comparison of each investigative record to all CTR's for the years 2000 through 2005 would demonstrate that more than 3.1 million CTR's directly impact FBI investigations with an error rate of less than 1 percent, plus or minus. This number is conservative as the matching process used exact name and date of birth or exact Social Security number and not the host of other identifiers available to investigators, such as telephone numbers or addresses.

In contrast, the 314(a) process can only be used on the most significant terrorism and money laundering investigations, and only after all other financial leads have been exhausted, which include reviewing CTR's. The banks are only required to review accounts maintained by the named subject during the preceding 12 months and transactions conducted within the last 6 months, in sharp contrast to the 10 years of data provided by the CTR's. Moreover, SAR's are only available on select matters where a bank official has made the subjective determination that a particular transaction or activity is suspicious. Although the banks are doing an outstanding job on reporting suspicious activity, SAR's are not a substitute for the objective transaction reporting provided by CTR's. All three tools, collectively, are of tremendous value.

Any decision to change the working of the seasoned customer exemption should be undertaken with great care, so as not to deprive our law enforcement and intelligence personnel of highly valuable data points. This is particularly so because of the steadily increasing ability of the Bureau to use these data points to meaningfully track national security threats and criminal activity. Though information on the evolution of this capability is not appropriate for public discussion, we are happy to provide nonpublic briefings on it and have done so already for some members of your staffs.

The Bureau and the Administration are committed to working with this Committee and the Congress to ascertain whether certain categories of CTR's can be eliminated without harm to our investigative capabilities and, if so, to find effective methods to stop the filing of those, and only those, CTR's. But we should not eliminate the filing of any category of CTR's absent study of the utility of that category. Simply put, our adversaries are patient and will wait years, if necessary, to accomplish their mission.

### **Conclusion**

In conclusion, BSA data has proven invaluable to our counterterrorism efforts and has also proven its worth in traditional criminal investigations. Our experience shows that terrorism activities are relatively inexpensive to carry out and that the majority of CTR's of value to the law enforcement and intelligence communities are typically those that are prepared at or near the current reporting requirements. To dramatically alter currency transaction reporting requirements—without careful, independent study—could be devastating and a significant setback to investigative and intelligence efforts relative to both the global war on terrorism and traditional criminal activities.

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### **PREPARED STATEMENT OF KEVIN DELLI-COLLI**

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OFFICE OF INVESTIGATIONS, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT,  
U.S. DEPARTMENT OF HOMELAND SECURITY

APRIL 4, 2006

### **Introduction**

Chairman Shelby, Ranking Member Sarbanes, and distinguished Members of the Committee on Banking, Housing, and Urban Affairs, my name is Kevin Delli-Colli and I am the Deputy Assistant Director for Financial and Trade Investigations within the Office of Investigations, U.S. Immigration and Customs Enforcement (ICE). I appreciate the opportunity to share with you today how ICE is applying its financial investigative authorities and capabilities to identify, dismantle, and disrupt criminal enterprises that threaten our Nation's borders and homeland security.

### **The ICE Mission**

Among the Department of Homeland Security law enforcement agencies, ICE has the most expansive investigative authorities and the largest number of investigators. ICE's mission is to protect the American people by combating terrorists and other criminals who seek to cross our borders and threaten us here at home. The men and women of ICE accomplish this by investigating and enforcing the Nation's immigration and customs laws. Working overseas, along the Nation's borders and throughout the Nation's interior, ICE agents and officers are demonstrating that our unified immigration and customs authorities constitute a powerful tool for identifying, disrupting and dismantling criminal organizations that violate our Nation's borders. During fiscal year 2005, ICE investigations led to the seizure of nearly \$1 billion in currency and assets from the criminals who exploit our borders. Every dol-

lar of criminal proceeds seized is one less dollar criminals can use to fuel their businesses.

By leveraging the full potential of our immigration and customs laws, ICE makes it harder for potential terrorists and transnational criminal groups to move themselves, their supporters or their weapons across the Nation's borders through traditional human, drug, contraband, or financial smuggling networks, routes, and methods.

#### **Leveraging Authorities**

ICE has powerful tools for investigating the broad array of financial crimes that have a nexus to our borders. Since its creation in March 2003, ICE has capitalized upon its unified customs and immigration authorities to combat border, public safety, homeland and national security violations that fall within our broad jurisdiction.

One of the most significant outcomes to arise from combining these law enforcement authorities at ICE has been the aggressive application of financial investigative methods to disrupt and dismantle criminal organizations involved in immigration and human smuggling violations. By leveraging these authorities, ICE is now identifying, dismantling, and seizing the profits of criminal organizations that once thrived and generated extensive wealth from violating immigration laws. Corrupt foreign nationals, who violated the trust of their countrymen and plundered their country's financial assets, once fled to the United States and applied for political asylum and were beyond the reach of immigration officials. Now, as Politically Exposed Persons under ICE jurisdiction, Special Agents arrest them for their financial crimes and seize their assets for return to the governments they victimized.<sup>1</sup>

Our Special Agents in the field are demonstrating that financial investigations are a very powerful tool in our efforts to combat the multibillion dollar business of human smuggling and trafficking both at the border and throughout the Nation's interior. We are now able to go "up-stream" against these smuggling and trafficking conspiracies and take down their leadership and seize their assets.

#### **Battling the Business of Border Crimes**

ICE Special Agents operate with the understanding that the criminal activities we see are, at their core, criminal business enterprises. The criminal conspiracies to smuggle drugs, people, and contraband across the border in both directions are sustained by earning and then moving the money raised by the criminal activity. For example, it is estimated that the cross-border human smuggling from Mexico into the United States nets hundreds of millions of dollars for criminal gangs—and the drug trade, billions.

The related crimes that we see, including money laundering, murder, manslaughter, extortion, hostage taking and robberies, are some of the methods employed by criminals to maximize profit through violent means, while sustaining and growing their criminal enterprises. Most of these activities are predicated—at some stage—upon the illegal movement of people, goods, or money across the Nation's borders. This understanding of the criminal business model drives the ICE strategy of penetrating the financial architecture that supports continued criminal activity. ICE investigations identify cashflow routes, assets and holdings, and the means by which organizations seek to move the proceeds of their illegal activity. In so doing, ICE strikes at the heart of the criminal organization by targeting the financial infrastructure that permits criminal enterprises to flourish.

#### **U.S. Money Laundering Threat Assessment**

Under the leadership of the Department of the Treasury, the 2005 U.S. Money Laundering Threat Assessment (MLTA) constitutes the Federal interagency collaborative effort to identify vulnerabilities and methods employed by transnational criminal organizations to move and store their illegal funds. ICE was pleased to participate in the interagency working group, and provide information and insights relevant to the MLTA. We are proud of our contributions to this important and useful document, and are fully engaged in collaborating on the upcoming National Money Laundering Strategy.

<sup>1</sup>The ICE-led Foreign Public Corruption Task Force was established at the SAC Miami to address foreign public corruption and related money laundering through U.S. financial institutions, and other investments. A primary goal of the task force is to raise awareness within ICE field offices to foreign corruption, and deliver training to foreign governments in identifying public corruption and related proceeds laundered through U.S. financial institutions. The PEP Task Force has already delivered extensive training in Central and South America, and is conducting approximately 30 investigations.

### The ICE Assessment

As the financial, regulatory and law enforcement communities continue to tighten the enforcement of Anti-Money Laundering (AML) laws and regulations, criminal organizations are increasingly forced to resort to bulk cash smuggling, trade-based money laundering, and other schemes to move their illicit proceeds across our borders in both directions. With nearly 23,000 arrests across more than 24,000 cases in fiscal year 2005, ICE Office of Investigations has a substantial universe of information and opportunity to extract both tactical and strategic information on transnational crime and its financial infrastructure. The ICE Cornerstone initiative takes a *systemic*, rather than case-by-case, approach to the investigation of cross-border financial and trade crime. Through Cornerstone, ICE partners with the private sector, law enforcement, and the regulatory community to identify and eliminate vulnerabilities within the U.S. financial and trade systems that could be exploited by terrorists and criminal organizations. ICE is educating the private sector on red flag indicators of suspect criminal behavior indicative of these illicit schemes, and taking proactive steps to close vulnerabilities once identified.<sup>2</sup> ICE also focuses on the alternative financing mechanisms that terrorist and other criminal organizations use to earn, move, and store funds.

Since July 2003, ICE Special Agents have given over 2,000 presentations to over 40,000 business leaders, government officials, and law enforcement officers, worldwide, generating over 200 investigations directly attributable to Cornerstone outreach and education.

### Bulk Cash Smuggling

A number of the money laundering trends we have observed have developed in response to the robust anti-money laundering programs instituted by the U.S. financial industry in response to Federal legislation and regulation. As the opportunity to exploit our traditional domestic financial institutions diminishes, criminal organizations are turning to nontraditional and riskier methods to gather and move their proceeds, such as bulk cash smuggling. The ability of criminal business enterprises to advance their business model rests directly upon their ability to take possession of the money they have earned through their criminal activities.

The smuggling of bulk currency out of the United States has become a preferred method of moving illicit proceeds across our borders, forcing criminal organizations to devise methods for avoiding detection during the movement of this bulk cash across our borders. In response to this trend, Congress criminalized the act of smuggling large amounts of cash into or out of the United States in the USA PATRIOT Act. Specifically, Title 31 U.S.C. 5332—Bulk Cash Smuggling—makes it a crime to smuggle or attempt to smuggle over \$10,000 in currency or monetary instruments into or out of the United States, with the specific intent to evade the U.S. currency-reporting requirements codified at 31 U.S.C. 5316. ICE Special Agents have used the Bulk Cash Smuggling statute with great effect, arresting over 330 individuals for Bulk Cash Smuggling violations. In addition to these arrests, ICE and U.S. Customs and Border Protection (CBP) have worked together to seize over \$160 million in funds involved in these bulk cash smuggling violations. Whenever possible, these cases are developed into larger conspiracy cases to reach the highest levels of the smuggling organizations.

ICE's enforcement of the Bulk Cash Smuggling law does not end at our Nation's borders. In August 2005, ICE partnered with CBP and the State Department to initiate a joint training program for our Mexican counterparts on the methods used to smuggle bulk currency. As a direct result of this hands-on training, our Mexican counterparts seized over \$30 million in cash and negotiable instruments in violation of the Mexican currency-reporting laws, during pulse and surge operations conducted over a 9-month period. The day after this highly successful joint operation, known as Operation Firewall, was launched in August 2005, the single largest bulk cash seizure in Mexico of \$7.8 million dollars was realized. ICE has worked with our Mexican counterparts to tie these seizures to larger investigations conducted in Mexico, the United States, and other South American countries. In March 2006, building on the proven success of this initiative in Mexico, pulse and surge operations commenced again, resulting in two seizures totaling over \$7 million dollars within the first few days of the operation. The State Department continues to fund these international efforts and we are grateful for its support.

<sup>2</sup>The ICE-led El Dorado Task Force in New York identified a significant vulnerability in money laundering conducted via independently owned ATM's in and around the Greater New York area. This vulnerability was briefed to the NY State Banking authorities, the industry supplying the machines and other stakeholders. NY State Banking Authorities introduced State legislation to regulate the independently owned ATM industry.

### Money Services Businesses

In addition to our efforts to combat bulk cash smuggling, ICE works aggressively to identify and investigate other financial methods that criminals use to move their illicit funds out of the United States—such as the use of unlicensed money services businesses (MSB). These unlicensed businesses operate outside of the traditional banking system and governmental oversight, and have been long recognized by law enforcement as vulnerable for exploitation by terrorists and other criminals. The enhancements in Title 18 U.S.C. 1960, Prohibition of Unlicensed Money Transmitting Business, enacted through the USA PATRIOT Act, provided ICE with the authority to investigate unlicensed money remitters.

While many MSB's provide a legitimate service to their customers, those acting illegally evade Federal reporting and recordkeeping requirements. In an effort to address this vulnerability and force more transparency within the MSB industry, ICE is aggressively investigating illegal MSB's and has implemented an MSB/Informal Value Transfer System (IVTS) initiative built upon a three-tiered strategy of identification, compliance, and prosecution. The goal is to identify as many unlicensed MSB's as possible, investigate and prosecute any MSB that is linked to an ongoing ICE criminal investigation or meets Federal prosecution guidelines for violation of 18 U.S.C. 1960, and work with the IRS and the Financial Crimes Enforcement Network (FinCEN) to educate and bring into compliance those unlicensed MSB's not within prosecutorial guidelines of the initiative. Since the start of our MSB initiative in January 2006, ICE has identified over 80 suspected unlicensed MSB's and opened 55 formal investigations.

ICE's unified immigration and customs investigative authorities and capabilities give our Special Agents the ability to identify and close the homeland security vulnerabilities generated by and related to unlicensed MSB's money laundering activities.

Specifically, ICE is leveraging information it generates during immigration-related enforcement activities to identify and investigate unlicensed MSB's used by undocumented individuals to move money around the world. Investigations of individuals engaged in benefit fraud, the manufacture and sale of false immigration documents, human smuggling and trafficking activities, narcotics trafficking, or other transnational crimes have a significant potential to uncover unlicensed MSB's. Since the passage of the USA PATRIOT Act, ICE investigations of unlicensed money services businesses have resulted in over 171 arrests and the seizure of over \$25 million in currency.

### Trade-Based Money Laundering

Because of ICE's experience and continuing expertise in customs matters, our Special Agents are highly effective in investigating and combating trade and trade-based money laundering. Criminal enterprises have long misused international trade mechanisms to avoid taxes, tariffs, and customs duties. Alternative remittance systems, such as *hawalas*, have also long utilized trade to balance payments between *hawaladars*. As both the formal international financial system and money services businesses become increasingly regulated, scrutinized, and transparent, criminal money launderers and potentially terrorist financiers are more likely to use fraudulent trade-based practices in international commerce to launder, earn, move, and integrate funds and assets.

Trade-based money laundering is defined as: The use of trade to legitimize, conceal, transfer, and convert large quantities of illicit cash into less conspicuous assets or commodities. In turn, the tangible assets or value are transferred worldwide in an effort to avoid financial transparency laws and regulations. The ICE Trade Transparency Unit (TTU) identifies anomalies related to cross-border trade that present indications of international trade-based money laundering. The TTU generates, initiates and supports investigations and prosecutions related to trade-based money laundering, the illegal movement of criminal proceeds across international borders, alternative money remittance systems, and other financial crimes. By sharing trade data with foreign governments, ICE and participating governments are able to see both sides, import and export, of commodities entering or leaving their countries. This truly makes trade transparent and will assist in the identification and investigation of international money launderers and money laundering organizations. Other benefits of trade transparency include: Assisting developing nations in the potential identification of smuggling routes or public corruption, and reduction of smuggling that feeds the Black Market Peso Exchange laundering system.

The Data Analysis and Research for Trade Transparency System (DARTTS) is a proprietary ICE system that helps our Special Agents analyze foreign and domestic trade data and Bank Secrecy Act information. ICE Special Agents employ DARTTS to identify discrepancies in trade and financial data that may indicate money laun-



dering, customs fraud and other transnational crimes. The ICE Trade Transparency Unit (TTU) develops investigative leads from analysis through DARTTS and facilitates the dissemination of investigative referrals to field entities.

ICE launched the first TTU in Colombia to share information, better assess risks, and conduct intelligence-based investigations. Using State Department funding from Plan Colombia, ICE provided support to Colombian authorities and initiated trade-based data exchanges. Under this program, U.S. investigative leads are vetted by the TTU and disseminated to ICE SAC offices for investigation. Colombian leads are disseminated to our Colombian counterparts for investigation. Recently, ICE with funding from the State Department, provided 215 computers and other equipment to Colombia's Customs Service to increase trade transparency and combat trade-based money laundering, drug trafficking, contraband smuggling, tax evasion, and other crimes between Colombia and the United States.

Using the joint resources of ICE and Colombian TTU's, ICE implemented a Black Market Peso Exchange (BMPE) initiative, involving the analysis of companies and/or subject(s) involved in BMPE schemes. This initiative allows United States and Colombian authorities to exchange information and data for ultimate criminal or civil action, to target Colombian peso brokers, United States exporters, Colombian importers, and financial accounts facilitating BMPE activity.

As part of United States efforts in the Tri-border area (TBA) of Paraguay, Brazil, and Argentina, ICE is working with the United States Departments of State and Treasury and the Governments of Argentina, Brazil, and Paraguay to establish TTU's in those three countries. These initiatives are at various stages of development.

#### **Digital Money Laundering**

While the majority of border-related money laundering continues to take the form of conventional methods, such as bulk cash smuggling, money services business, and trade related activities, the rapid pace of technology is continuing to open a new horizon of opportunity for money launderers in the form of digital money laundering.

Internet payment services such as PayPal, BidPay, e-gold and E-Dinar represent new methods to transfer funds globally. For example in 2004, PayPal executed 339.9 million payments totaling \$18.9 billion in value. These significant and growing mechanisms to transfer funds and value globally in an instant provide new capabilities for those engaged in money laundering.

Often these kinds of services and transactions routinely cross several international jurisdictions. Some do not require customers to establish their identities. Some accept cash in order to open accounts. And some Internet payment conveyances keep few or no records. Others with substantial record keeping may reside safely beyond the reach of U.S. law enforcement. Merely determining which country has jurisdiction over these services can often present severe challenges to law enforcement. The proliferation of these services, in combination with prepaid value cards that can be used to withdraw cash from ATM's worldwide, poses very significant opportunities for the illicit movement of money and value outside the boundaries of current regulatory regimes.

These emergent systems and technologies represent a significant challenge to our ability to force transparency into the movement of money and bearer instruments across our borders, and are not addressed by the currency and monetary instrument reporting requirements as presently structured.

#### **ICE Use of Bank Secrecy Act Data**

Law enforcement uses the entire array of Bank Secrecy Act documents in a variety of ways. ICE has a long history of collecting, analyzing, and utilizing Bank Secrecy Act data in criminal investigations. ICE's use of Currency Transaction Report (CTR's) data is a valuable analytic tool for detecting illegal activity, developing leads, and furthering investigations.

The so-called "placement" of funds into the financial system is the most vulnerable stage of the money laundering process for criminal organizations. Generally, individuals and businesses conducting legitimate transactions have no reason to structure deposits or withdrawals to avoid the current \$10,000 threshold for the filing of a CTR. The CTR requirement leads criminals to deliberately structure deposits into the banking system in order to avoid the reporting requirement in the hopes of avoiding suspicion and detection. Because criminals must structure their illicit proceeds, they are forced to make multiple financial transactions to place the illicit proceeds into financial institutions. This forces the criminal organization to expend additional time and effort, and it provides law enforcement with indicators used to detect illegal activity.

In an effort to circumvent the CTR requirement, international criminal organizations have employed numerous “peripheral employees” to “smurf” their illicit proceeds into financial institutions. U.S. law enforcement has learned to exploit the inherent weaknesses created by this process, as it provides law enforcement with a greater number of targets for interdiction efforts, undercover opportunities, and confidential source development.

In the course of our investigations, CTR’s are used to establish links between persons and businesses, to identify co-conspirators, potential witnesses, and to reveal patterns of illegal activity. CTR information has been utilized to meet the probable cause requirement necessary to obtain search and/or arrest warrants. CTR’s link individuals and businesses to financial institutions and provide this information so the investigator can utilize the information for subpoenas. CTR’s can also provide critical information relating to asset identification. Most importantly, as mentioned above, the CTR requirement causes violators to deliberately structure deposits into the banking system, which is a significant red-flag indicator of criminal activity. To illustrate how important CTR’s are to ICE investigations, ICE Special Agents queried CTR records over 454,000 times just in fiscal year 2005. ICE has many examples of investigations that were initiated, enhanced, or perfected because of access to the Bank Secrecy Act repertoire of documents.

### **Conclusion**

All forms of illegal movement of money and other financial instruments across our borders, and through our financial institutions, along with the generation of illegal proceeds from crimes that violate our customs and immigration laws constitute threats to the Federal revenue, our economy, our allies, and our national security.

While financial crimes themselves are a direct threat, they also sustain and support the illicit activities of terrorists or other criminals. By aggressively enforcing our Federal laws against money laundering, particularly those related to transnational crimes, ICE Special Agents are working to close existing vulnerabilities in our border and homeland security.

Although the majority of cross border-related money laundering we see today is by known methods, this illegal business is evolving in dangerous ways. Specifically, the advance of “digital currency” offers potential violators a new horizon of opportunities for money laundering. ICE Cybersmuggling Center is working with other agencies to address this emerging threat. This technology is evolving faster than the regulatory infrastructure can keep pace.

While ICE is a new agency, with newly unified immigration and customs authorities, many of our Special Agents continue to build upon their deep experience with financial investigations and immigration enforcement. We are aggressively applying our financial investigative authorities and capabilities across the full ICE portfolio, in order to identify and close vulnerabilities in our border and homeland security. At the same time, we are bringing to bear the best of our former agencies’ expertise, cultures, and techniques, while building a new Federal law enforcement agency that is greater and more effective than the sum of its parts. In case after case, ICE Special Agents are putting into practice the powerful advantages that flow from our unified authorities, and are putting them to great use on behalf of the American people. The net result is a greater contribution to the Nation’s border security, which is a critical element of national security.

My colleagues at ICE are grateful for the chance to serve the American people and, on their behalf, I thank this Committee, its distinguished Members, and Congress for the continued support of ICE investigative endeavors.

I would be pleased to answer your questions.

**RESPONSE TO A WRITTEN QUESTION OF SENATOR CRAPO  
FROM MICHAEL MOREHART**

**Q.1.** As you know, the House overwhelmingly passed legislation that included Section 701 exception from currency transaction reports for seasoned customers. Section 701 attempts to provide relief for banks without weakening the Bank Secrecy Act (BSA). To be exempted, the account has to be for a business, not an individual; the business account has to be open for at least 12 months; and currency transactions must have been conducted previously. In addition, the bank has to notify the Treasury Department of the customers that have been exempted, and Treasury can reject or revoke an exemption. Therefore, Treasury has the final say with respect to the exemption if there are issues with a particular customer. If enacted, the amendment will be revisited in 3 years, and the Secretary of the Treasury can recommend to Congress any legislative action that may be deemed necessary. Do you have concerns with Section 701? If so, what are those concerns?

**A.1.** As indicated during this hearing, the FBI believes the financial sector's use of the Designated Exempted Persons process should be examined. This review should address the current use of the Bank Secrecy Act (BSA) and Currency Transaction Report requirements to determine whether the financial sector fully uses the regulatory exemptions currently available. If this review reveals the need for legislation, the FBI recommends additional notice be afforded before new requirements are imposed.

**RESPONSE TO WRITTEN QUESTIONS OF SENATOR BUNNING  
FROM MICHAEL MOREHART**

**Q.1.** The Money Laundering Threat Assessment admits that our agencies do not have a single definition of money laundering. What progress has been made since the report to reach a common understanding, and what needs to be done to get there?

**A.1.** Title 18 U.S.C. §§ 1956 and 1957 impose criminal sanctions for money laundering, prohibiting the disguising of proceeds from criminal activities to conceal their illicit origins. Because all Federal law enforcement agencies use these authorities in pursuing money laundering investigations, the FBI is unaware of a misunderstanding among the agencies regarding the elements of this crime. In fact, the FBI has concurred with the goals and objectives of the National Money Laundering Strategy articulated by the Treasury Department and is, along with the Drug Enforcement Administration, Department of Homeland Security Immigration and Customs Enforcement, and U.S. Postal Service, a signatory to a multilateral agreement allocating responsibilities for money laundering investigations among the various Federal law enforcement agencies. Success in stemming the flow of illegal funds throughout the world depends on the law enforcement community's achievement of several key objectives: Blocking and confiscating terrorist assets worldwide; establishing and promoting international legal standards that are adopted by other countries to safeguard their financial infrastructures from abuse; facilitating the international exchange of relevant information; and investigating and prosecuting the violators to the fullest extent of the law.

**Q.2.** Does the CIA cooperate with you? Do you get up-to-date intelligence on suspected money laundering for terrorists from CIA intelligence?

**A.2.** Information sharing is critical to the efforts of the U.S. Government in addressing terrorism and other criminal matters, and the CIA and the FBI cooperate well. Both organizations understand that the value of intelligence cannot be maximized unless it can be filtered, analyzed, and disseminated to those who can make the best use of it. The FBI's Interagency Financial Operations Unit is co-located with the CIA and is responsible for coordinating and enriching Headquarters' activities and field investigations through its partnership and collaboration with the appropriate CIA components responsible for financial intelligence.

**Q.3.** One finding in the Money Laundering Threat Assessment is that relatively few money services businesses have registered with the Financial Crimes Enforcement Network. What can be done to increase registration, what problems are created by that lack of registration, and is action needed from Congress to get more businesses registered?

**A.3.** The FBI defers to the Treasury Department's Financial Crimes Enforcement Network (FinCEN) with respect to the implications of FinCEN registrations.

**Q.4.** What evidence are we seeing of connections between organized crime, drug rings, and terrorist groups?

**A.4.** The FBI continues to gather intelligence and actively investigate drug trafficking, including its use as a source of terrorism funding. Through the Joint Terrorism Task Forces, the FBI has partnered with investigative, regulatory, and intelligence agencies to identify the genesis of funding for terrorist groups. In addition, a multiagency Drug Enforcement Administration (DEA) unit receives information from drug investigations across the country and forwards to appropriate agencies for further development or tactical use any information related to possible terrorism. While the FBI has not identified clear connections between drug trafficking and terrorism funding in the United States, there are indications of such connections outside the United States.

For example, Afghanistan has historically been a major source of heroin throughout the world. While FBI investigations have not revealed systemic support of terrorism from regional drug trafficking, local drug traffickers in the region may be affiliated with extremist groups. A joint FBI/DEA investigation in 2003 resulted in the arrests of 6 Afghan and Pakistani subjects involved in an extensive drug ring. The investigation revealed that heroin, grown and processed in Afghanistan and Pakistan, was being shipped to the United States, and profits from its sale were laundered through businesses and returned to suspected associates of terrorist organizations in that region. A direct link between drug traffickers' profits and the financing of terrorist activities has, however, not been proven.

Another example of the connection between illegal drugs and terrorism is found in some regions of Colombia. FBI and DEA investigations indicate that these regions continue to produce cocaine and heroin, shipping them to the United States and using sales

proceeds to fund various groups, including the Revolutionary Armed Forces of Colombia, a designated terrorist organization. In addition, the Spanish National Police have recently reported that investigation of the March 11, 2004 Madrid train bombings indicates partial funding of these terrorist attacks with the proceeds from drug trafficking.

**Q.5.** What are the main methods of organized retail theft used by terrorists? Is the stealing of baby formula for Hamas a major problem in the United States?

**A.5.** The FBI has conducted numerous investigations of criminal activities having a possible nexus to terrorism. These include investigations into:

- cigarette smuggling operations in which large quantities of minimally taxed or tax-free cigarettes may have been smuggled to Detroit, Michigan, to evade the Michigan State sales tax;
- whether terrorist organizations have benefitted from the sale of counterfeit clothing, fragrances, and electronics;
- whether stolen credit cards have been used for the benefit of terrorist cells; and
- the possible use of stolen telephone and credit cards to communicate with terrorist support organizations in such places as Pakistan, Afghanistan, and Lebanon.

The theft of baby formula appears to be most prevalent among Middle Eastern immigrant groups of lower economic status. While some of those participating in this activity are Palestinian, the FBI does not have specific information linking Hamas or other Palestinian terrorist groups to this criminal scheme.

**Q.6.** Recently, the FBI and State Department sent officials to speak at a conference cosponsored by the International Institute of Islamic Thought, part of the network of northern Virginia Saudi businesses and charities that was raided by Federal officials in 2002 for suspected ties to Islamic terrorist groups[.] Why do the State Department and the FBI send representatives to speak at conferences sponsored in the United States by suspected money launderers for Islamic militants?

**A.6.** The FBI has not been able to confirm the attendance of FBI officials at the referenced conference. There are, though, many reasons we might want to address such a group, including the benefits to us of: Supporting the other conference sponsor; improving relations with attendees who are in a position to assist us; and learning more about the organization or its activities through this proximity.

**Q.7.** Which terrorist groups are the most active in the United States in money laundering?

**A.7.** The FBI is not able to identify the terrorist groups most active in the United States with respect to money laundering. While the FBI's counterterrorism investigations deal with a wide variety of criminal activities that generate illegal proceeds, it is difficult to directly correlate these illegal proceeds with specific terrorist activities.

**Q.8.** Are there any problems or confusion in tracking the movement of funds caused by illegal aliens and legal guest workers sending money to their home countries? If Congress passes a guest worker program that increases guest workers, will that create more problems?

**A.8.** Without addressing the possible broad implications of a guest worker program, and focusing solely on the narrow issue of tracking funds in such an environment, the FBI generally finds that minimizing the number of undocumented residents improves the ability to track their fund transfers. This is true because informal transfer vehicles are often used by those who do not have access to the regulated financial sector due to a lack of proper identification; those who conduct financial transactions anonymously; and those who avoid scrutiny of the law enforcement and intelligence communities by circumventing the recordkeeping and reporting requirements of the established financial sector. Undocumented residents are likely to use, for example, the Informal Value Transfer System (IVTS), which allows for the transfer of value without the identifications and reporting required by regulated financial institutions. Because guest workers would have legal status, and therefore would have the identification, source of income, and other documentation required by the regulated financial sector, they would presumably be less likely to use the IVTS.

**Q.9.** How much is counterfeiting of goods a problem? Where do the proceeds go to?

**A.9.** While the counterfeiting of goods presumably contributes to terrorism financing as well as to the provision of funds for other purposes, the FBI has neither tracked the degree to which counterfeiting is used relative to other funding sources nor prepared an analysis of how these funds are distributed.

**Q.10.** What were the results of the investigation into the hundreds of Saudi bank accounts held by Riggs Bank in Washington?

**A.10.** In August 2003, the FBI requested records relating to approximately 100 Riggs Bank accounts to assist investigators in identifying a possible link to terrorist activity. While the FBI did obtain from these records some information that was beneficial in other ongoing investigations, these records did not reveal a direct nexus to terrorism. The FBI also obtained records relating to a Citibank account held by the Saudi Arabian Monetary Agency (SAMA), which is the central bank of the Kingdom of Saudi Arabia. SAMA issues currency, acts as a banker for the Saudi Government, and is the government's investment authority. These records, which covered a 3-year period, also did not reveal a link to terrorism. In June 2004, Riggs Bank informed the Saudi embassy that their Riggs Bank accounts would be closed.

**Q.11.** I understand that the second wave of post-September 11 attacks were to be self-financed by credit card fraud. Would any of you care to elaborate on this? Or on the particular trend we have now seen with terrorist groups that are told to "self-finance" their operations?

**A.11.** Intelligence suggests that overseas groups may fund their own terrorism activities using a variety of criminal schemes. An ex-

ample of this is the 2004 Madrid train bombings, which reportedly were funded by the proceeds of illegal drug sales along with income from legitimate jobs held by members of the terrorist group. The FBI's domestic investigations of myriad criminal activities have not, however, provided an evidentiary link indicating that the proceeds from these illegal activities are being used directly to fund terrorism in the United States.

**Q.12.** How much revenue do Hamas and Hezbollah get from money laundering in the United States?

**A.12.** Money laundering, including money laundering accomplished to fund Hamas and Hezbollah, is investigated by the FBI when we develop information concerning this illegal activity. However, by their nature money laundering and other forms of terrorist financing are pursued in secrecy and the FBI is not aware of all such funding schemes. We cannot, therefore, provide an estimate of revenues derived by Hamas and Hezbollah through money laundering.

**Q.13.** Is the smuggling of cars and SUV's to the Middle East an increasing problem? If so, please detail the scope of the problem and how you are dealing with it. Are SUV's actually being illegally smuggled out of the United States to serve as suicide bomb vehicles in Iraq or Saudi Arabia?

**A.13.** FBI investigations have shown that some cars sold on a secondary market have been legally purchased in the United States and then shipped overseas. To date, though, it has not appeared that these vehicles were illegally smuggled out of the United States for the specific purpose of being used in car bomb attacks in Iraq, Saudi Arabia, or elsewhere.

#### **RESPONSE TO A WRITTEN QUESTION OF SENATOR STABENOW FROM MICHAEL MOREHART**

**Q.1.** As I understand it there are a number of different systems in place to detect suspicious activity. These include enhanced customer identification programs, increased suspicious activity reporting, and the use of the 314(a) process. It seems that these programs have been successful in gathering the appropriate data and are generally supported throughout the industry. Specifically, it is my understanding that the 314(a) inquiry process that we put in place as part of the USA PATRIOT Act has been a particularly effective tool since it allows law enforcement to ask for detailed information on suspected accounts.

The question that I have is about duplicative efforts involved in CTR reporting. One thing I hear from bankers all across the country is the time, expense, and overall regulatory burdens they face in filing countless CTR's on legitimate businesses. What suggestions do you have to minimize the data that is gathered on businesses that we know, trust, and have a legitimate track record with financial institutions?

**A.1.** The FBI suggests the financial sector review and make full use of the Designated Exempted Persons protocol. Greater use of this process would reduce the banking sector's need to file BSA reports on well-established, long-term customers.

**RESPONSE TO WRITTEN QUESTIONS OF SENATOR BUNNING  
FROM KEVIN DELLI-COLLI**

**Q.1.** The Money Laundering Threat Assessment admits that our agencies do not have a single definition of money laundering. What progress has been made since the report to reach a common understanding, and what needs to be done to get there?

**A.1.** There is a common definition for money laundering as defined by statute. The comment in the MLTA was directed at the ways different Federal agents capture statistics related to money laundering. By statute a money laundering offense arises from financial transactions that promote or are proceeds of Specified Unlawful Activity (SUA). An SUA is a specific Federal offense such as drug smuggling, bank fraud, credit card fraud, or intellectual property rights violation. Statistics are often captured and reported as the SUA.

**Q.2.** Does the CIA cooperate with you? Do you get up-to-date intelligence on suspected money laundering for terrorists from CIA intelligence?

**A.2.** Yes, ICE receives appropriate information from the intelligence community, including the CIA, in accord with accepted laws and practices that govern the sharing of intelligence information.

**Q.3.** Is the smuggling of cars and SUV's to the Middle East an increasing problem? If so, please detail the scope of the problem and how you are dealing with it. Are SUV's actually being illegally smuggled out of the United States to serve as suicide bomb vehicles in Iraq or Saudi Arabia?

**A.3.** The Middle East is a strong market for the legitimate sale and export of large-model vehicles and American made SUV's. Hundreds of millions of dollars worth of large-model American made vehicles are legitimately exported to Middle East countries, including Saudi Arabia, Iraq, and Kuwait annually. There have been instances in which criminal organizations have illegally exported SUV's and other vehicles destined for the Middle East. There is no indication that this is an increasing problem, nor is there any anecdotal evidence that such vehicles were used in suicide bombs in Iraq or Saudi Arabia.

**Q.4.** Are there any problems or confusion in tracking the movement of funds caused by illegal aliens and legal guest workers sending money to their home countries? If Congress passes a guest worker program that increases guest workers, will that create more problems?

**A.4.** A number of issues arise from the movement of funds: The repatriation of wages by illegal aliens and legal guest workers, the remittance of funds by U.S. citizens to offshore locations, and the placement of illicit proceeds. Illegal aliens frequently lack the proper identification required by traditional financial institutions to transact business. They in turn utilize money services businesses (MSB's) and nonbank money transmitters, many of which cater to ethnic populations.

Although guest workers would have legal identification and may chose to use depository institutions for banking purposes, they like many other current legal immigrants may still turn to licensed and



unlicensed money services businesses for remitting funds and cashing checks. Almost by definition, it is harder to accurately track the flows of monies through less regulated channels, even if the monies are all legitimate and are not being used for any criminal purpose.

MSB's are not required to obtain positive identification for transactions under \$1,000. ICE investigations have revealed numerous instances of unscrupulous agents of licensed MSB's and unlicensed MSB operators willing to conduct financial transactions well in excess of this amount without proper identification or with false identification.

The lack of formal customer relationships and the transient nature of the customer base are two complicating factors in tracking the movement of funds through MSB's.

**Q.5.** How much is counterfeiting of goods a problem? Where do the proceeds go to?

**A.5.** Counterfeiting of goods is a significant problem for the United States. Current estimates indicate that U.S. trademark and copyright holders lose as much as \$250 billion annually to counterfeiting and piracy. The U.S. Chamber of Commerce estimates that overall, 750,000 U.S. jobs a year are lost to intellectual property theft. To help combat the international problem of counterfeiting and piracy, ICE hosts the National Intellectual Property Rights Coordination Center to provide coordination, assistance, and training to trademark holders; Federal, State and local law enforcement; and foreign governments. The IPR Center is a joint effort of ICE, CBP, and the FBI, and it also serves as a deconfliction center for IPR investigations. ICE relies on its 26 ICE Special Agent in Charge Offices in the United States to conduct IPR investigations, and 56 ICE Attaché Offices located worldwide, which assist ICE in developing and coordinating transnational IPR investigations. For instance, ICE conducted the first two undercover IPR investigations in the People's Republic of China with Chinese authorities, and both resulted in the dismantling of international counterfeiting rings, and the prosecution of Chinese and United State citizens.

ICE investigations have revealed an increased involvement by organized crime groups in the trafficking of counterfeit merchandise due to high profits and perceived low risks. Organized crime groups may use the proceeds of counterfeiting to further other crimes, such as gambling, human trafficking, and money laundering. Since fiscal year 2001, China has been the leading source of IPR-infringing goods seized by DHS; however, the number of source countries is increasing.